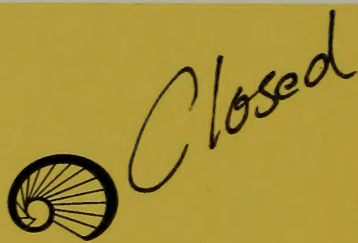


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15 WEDNESDAY, MARCH 1, 2006

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26 Evelyn J. Mizak
27 Shorthand Reporter
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APPEARANCESMEMBERS PRESENT

SENATOR DON PERATA, Chair

SENATOR JIM BATTIN, Vice Chair

SENATOR ROY ASHBURN

SENATOR DEBRA BOWEN

SENATOR GILBERT CEDILLO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR BATTIN

CHRIS BURNS, Consultant to SENATOR ASHBURN

EVAN GOLDBERG, Consultant to DEBRA BOWEN

DAN SAVAGE, Consultant to SENATOR CEDILLO

ALSO PRESENT

RUSSELL S. GOULD, Member
University of California
Board of Regents

EDDIE R. ISLAND, Member
University of California
Board of Regents

LESLIE T. SCHILLING, Member
University of California
Board of Regents

LINDA TSAO YANG, Chair
Asian Corporate Governance Association

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN PERATA: We have the honor of three appointees appearing today for the UC Regents. Sometimes we will take people in a group, but I think given the positions that you're serving in, and the business at hand, we'll ask you to come up in file order.

First one is Russ Gould. Russ, if you'd like to come up.

I've known Russ for a long time. I was a county supervisor, he was the finance director for somebody, and he treated me nicely. So, I've never forgotten that, Russ, so you're in your mother's arms.

MR. GOULD: Obviously that was a good decision then.

CHAIRMAN PERATA: Welcome.

MR. GOULD: Thank you very much.

What I'd like to do is to provide a very brief opening statement, then respond to any questions that you might have.

CHAIRMAN PERATA: That's fine.

MR. GOULD: Mr. Chairman and Members of the Committee, it's my pleasure to be here to discuss my qualifications to be a Regent for the University of California. I'll talk a little bit about my background and interest in the position, and then comment on --

CHAIRMAN PERATA: Excuse me. It's just the Republicans that tend to be rude.

1 I had a bad morning, and it ain't getting any
2 better.

3 [Laughter.]

4 CHAIRMAN PERATA: Go ahead, Russ.

5 MR. GOULD: And also comment on some of the
6 challenges that the University of California faces today.

7 By way of background, I consider myself extremely
8 fortunate to have attended UC Berkeley and graduated in 1972. I
9 came to Berkeley after completing a tour at the community
10 colleges and then transferred there.

11 I was the first person in my family to attend a
12 four-year college, which may have been a surprise to some of my
13 family members, but it was a truly remarkable experience for
14 me. I was actually steered towards higher education by my
15 father, who was a second generation plumber. And after having
16 seen some of my early mechanical skills, he strongly urged me to
17 consider higher education and another line of work. So, I owe a
18 big debt of gratitude to my father's insight.

19 But in all seriousness, my experience at Berkeley
20 truly changed my life, and for many people who go through the
21 system, I think they have the same conclusion. Beyond the
22 academic training which was rigorous and one that I had to work
23 very hard at, it really opened my eyes to a bigger world that
24 was out there. It expanded my choices, and it gave me the
25 opportunity to make a significant difference in whatever field I
26 chose to pursue.

27 And I feel very fortunate that my experience at
28 Berkeley led me back to the State Capitol and over 20 years of

1 public service for the State of California. The last two
2 assignments that I had for the state, one was as Health and
3 Welfare Secretary for the state, and then as Director of Finance
4 for the state. So, those were two interesting assignments
5 during some very challenging times.

6 Senator, you and I got to talk a lot during that
7 period of time.

8 And I think in spite of what was a very
9 complicated situation, that some good things came of that. So,
10 I think that's what you always try to do, is to make the best
11 out of the situation you're handed, and clearly, that was a
12 difficult one.

13 I currently serve as a Senior Vice President for
14 Wachovia Bank on the banking and investment side, so I've kind
15 of migrated out of public service and now am on the banking
16 side.

17 You know, my academic and work experience has
18 really led to a couple of key beliefs. First, the importance of
19 trying to establish a level playing field for all people to take
20 advantage of opportunities like the University of California.
21 It's so important that people perceive that kind of equity and
22 opportunity in this state.

23 I also recognize UC's role in research and as
24 part of really building California's economy for the future.
25 And so, I think we need to nourish that, and we need to take
26 advantage of what this institution can do.

27 Finally, I recognize from my old budget days that
28 there are going to be limited resources, and we're going to have

1 to make some hard choices about how to manage this great
2 institution with limited resources and to make good choices.

3 So in short, we face a continuing challenge of
4 maintaining the excellence of the UC system for the future of
5 California while, at the same time, ensuring access,
6 affordability within limited resources. It's a challenge that
7 we mutually face, and I welcome continued discussion with the
8 Legislature as we try to sort through this challenge.

9 Speaking of challenges, I also recognize there
10 have been some very legitimate questions raised regarding some
11 of the past practices at the University of California, primarily
12 related to compensation and to the lack of public disclosure of
13 the issues there. These questions need to be addressed head-on,
14 and reviews are underway. There is an audit of the kind of top
15 managers within the system on their total compensation, and we
16 hope that report will be done in March, as well as a new
17 Compensation Committee that's going to look at the whole
18 structure of what's going on.

19 There is also a former Speaker Hertzberg and
20 Joanne Kozberg, who is a Regent, are involved in a task force to
21 try to examine some of these issues and provide some guidance.
22 So, you have clearly got our attention, the public has got our
23 attention as to this issue, and we need to solve it. We need to
24 be much more responsive, and we also need to be more visible to
25 the public as to any actions that are taken.

26 I'm hoping these efforts will provides us
27 information and direction for the future. But my sense of it is
28 that it's an opportunity for us to actually take a step back,

1 and to look at just the fiduciary relationship between the
2 board, the Regents, and the President's office, and to
3 re-examine some of the fundamentals that we have. At this March
4 meeting coming up, I'm going to suggest to my colleagues that we
5 examine this in a broader way so that the kind of surprises that
6 the Regents have had, the surprises that the public has seen are
7 ones that we try to get ahead of, and hopefully look at best
8 practices of other great institutions and determine how should
9 we manage this relationship. So, I'm going to hopefully
10 encourage my colleagues to broaden the review so that we can
11 take that step back.

12 I think with that we can establish a leadership
13 position for the University and hopefully assist other
14 jurisdictions by going through that examination and providing
15 the benefit of that review. So hopefully, it puts UC back in a
16 position of leadership because we've thought it through.

17 In conclusion, I commit to an open, honest
18 relationship between the Regents, the Legislature, and the
19 public. I'm confident that we share the same ideals and
20 recognize the same challenges UC faces.

21 UC is a great asset for this state, and if
22 confirmed I pledge to serve the institution well. I look
23 forward to working with you to achieve our mutual goals.

24 Thank you.

25 CHAIRMAN PERATA: Thank you.

26 I want to just follow-up on what I think was your
27 discussion about the March meeting, and then in your written
28 responses to the Committee, you talked about the fiduciary

1 audit.

2 Would you expand on that a little bit?

3 MR. GOULD: I guess what we've encountered, and I
4 talked to Chairman Parsky about this a little bit, and in his
5 comments that he made to I think it was an Education
6 Subcommittee, he alluded to the same thing.

7 What we've found is pockets of issues, whether it
8 was through the labs, whether the treasurer's office, and now on
9 compensation, where maybe a preemptive strike, kind of taking
10 that step and review ahead of time rather than waiting until a
11 problem appears, is the right approach.

12 And so, my idea is to look at the fundamental
13 delegations between the Regents and the President, examine those
14 kind of core relationships, identify ways to keep people
15 accountable under those delegations, and then be able to use
16 that as a template for moving forward. And it also would be a
17 kind of public document that we could share and get input from
18 the Legislature as part of that structure.

19 CHAIRMAN PERATA: And the Regents itself would
20 commission the audit?

21 MR. GOULD: Yeah. I think it's important that we
22 have outside input, that it not just be, you know, the
23 President's office staffing the Regents to say, here's how our
24 relationship ought to work.

25 CHAIRMAN PERATA: The usual suspects.

26 MR. GOULD: That I think it would be helpful to
27 have some outside perspective and to look at leaders within,
28 either former leaders in government or in the education world to

1 really assist us in that assessment. And looking at best
2 practices nationally, it may require some time to kind of look
3 at what's going on in some of the great institutions beyond
4 California's borders.

5 CHAIRMAN PERATA: Please keep us posted and
6 apprised of how that's going, if you need any help. I think
7 it's a very smart decision for a variety of reasons.

8 Members?

9 SENATOR ASHBURN: On the point that's been raised
10 with respect to the compensation issue and other issues that are
11 emerging where the trustees or the Board of Regents have not
12 received the proper information, what appears is a culture of
13 manipulation of information. And you and your colleagues as
14 Regents are going to be in the critical position of being the
15 safeguards for the public.

16 And so, I just want to emphasize the seriousness
17 of this matter. The specifics are important, but what I'm more
18 concerned about is a structure of leadership. I'm not talking
19 about leadership in the good sense, but leadership in who's in
20 position of authority and responsibility, where things are done
21 and then hidden; actions are taken and then disguised. That
22 can't be tolerated, it should not be tolerated. And the Regents
23 ultimately are the advocates of the public and of our students
24 to make sure that that ends.

25 So, you come at a critical time in my opinion for
26 confirmation, and I'm speaking not just to you, Russ, but to the
27 others here for confirmation, and I hope to the entire
28 University of California.

1 And the way in which the management audit, the
2 fiduciary accountability structure is reviewed is an important
3 undertaking, but it's going to be the leadership of the Board of
4 Regents to question everything and to make sure that credibility
5 is reestablished.

6 So, I would invite any comments that you have,
7 but those are more in terms of concerns that I bring to you.

8 It happens. It happens in all large
9 institutions. It's a culture that develops, and the only way
10 that you can take it down is to demonstrate an openness and a
11 leadership. I think each of you have that unique opportunity.

12 MR. GOULD: Senator, just a brief comment.

13 I concur. I think this culture has developed
14 over time. And I think that's why I suggest you kind of taking
15 a step back and kind of reexamining the relationship, because I
16 think these are in incremental decisions that have probably
17 occurred over time, and one builds on the other, and you kind of
18 lose track. So, it's time to kind of stop, and then say what is
19 appropriate.

20 And so, I hope that -- I think we have common
21 ground here, and I hope we can achieve a great deal working on
22 this issue.

23 SENATOR ASHBURN: Thanks.

24 CHAIRMAN PERATA: Senator Battin.

25 SENATOR BATTIN: Thank you, Mr. Chairman.

26 The Regent position is a remarkably important
27 job. And it is unique in so many aspects. It's a twelve-year
28 appointment. One-half of the Legislature will confirm you, and

1 then you're set, unless you do something, frankly, illegal to
2 lose the job.

3 You'll probably spend more time making policy for
4 the UC than most Members of the Legislature will spend in their
5 career making laws.

6 And it really falls to you to be the guardian of
7 the UC system. And when we talked today, and I enjoyed our
8 conversation with all the appointees, the point I made was that
9 part of the unique position is, you are the only authority that
10 the President of the UC system has. The Legislature cannot fire
11 him. The Governor cannot fire him. No one can but the members
12 of the UC Regents.

13 It is, I think, frustration that clearly
14 everybody's talked to you about. I don't think there's been a
15 Member that you've chatted with who hasn't brought this up, that
16 thinks that the watchdog and leadership, the administrative
17 role, has kind of lacked and we have gotten these problems,
18 these mini-scandals, if you will. And it's just not in
19 compensation. I'll bet if you peel it back, you'll find it over
20 and over in many different levels.

21 So, what I want from you -- and so I don't have
22 to ask the question twice more, if you could address it, the
23 other appointees, when you come up -- is what your personal view
24 is of that administrative role that you have, your policy making
25 body; and if you're willing to hold the President of the system
26 completely accountable and replace him, if need be; to use your
27 position that you have for twelve years as one that is going to
28 safeguard and look out for the system, the students, and

1 California as a whole.

2 And I believe that you will. I just want to give
3 you the opportunity to express that.

4 MR. GOULD: Well, you are exactly right as to the
5 role of the Regents and our responsibility. And not only our
6 responsibility to manage the broader mission of the University,
7 but to hold the President accountable for what we ask him to do,
8 and for those issues in which we have either delegated with
9 reporting responsibility back to us, or things that he has total
10 delegation on.

11 But we have to hold him accountable, and that's
12 part of the review I'm suggesting, is to clarify that so there's
13 no surprises, because we are -- it's a great public trust. And
14 I take it very seriously, but we have to have that kind of
15 relationship with the President to ensure compliance with the
16 direction that the Regents provide.

17 SENATOR BATTIN: Thanks.

18 CHAIRMAN PERATA: Senator Bowen or Senator
19 Cedillo?

20 Do you have family with you?

21 MR. GOULD: I do. My wife is here with me, Beth.

22 CHAIRMAN PERATA: Welcome.

23 MR. GOULD: And my sister-in-law is here also,
24 Debbie Wilson.

25 CHAIRMAN PERATA: Welcome to both of you.

26 Senator Bowen has a question.

27 SENATOR BOWEN: My question really is for all
28 three, and it has to do with student fees and financial aid.

1 We've had an ongoing discussion about the fact
2 that fees are so unpredictable. This year there's a proposal to
3 buy out fee increases, but two years from now we could well have
4 an extreme fee increase.

5 What is your view on that matter, as well as on
6 what role the Regents should play in setting a fee policy that
7 is predictable, which I think, my own view, is one of the most
8 important.

9 MR. GOULD: Senator Bowen, I think we've had the
10 mutual experience of working together on this issue. It's --
11 one of the big challenges for higher education is when the
12 economy changes in California, we get into this, you know, it's
13 good times; it's bad times. And the boom-bust kind of cycle for
14 higher education does not work.

15 In some other program areas you can make an
16 argument that you can adjust more rapidly, but higher education
17 is not one of those areas. You have the students; you have the
18 faculty; you've got what's necessary to complete a quality
19 education for those folks.

20 To me, part of that long-term strategy to provide
21 the resources for the system and predictability is to have
22 gradual and moderate and predictable fee increases. So, I'm a
23 fan of that. I've been on record for that. And I think
24 long-term, that will serve us very well. So, that's what I will
25 be encouraging.

26 I think it's fair to the students, to the
27 parents, and to the taxpayers to know what the overall support
28 is going to be for people attending the University.

1 SENATOR BOWEN: And then going with that is the
2 conversation, and I think there was a question that you were
3 asked, about the University grant program, Cal Grants, and so
4 forth, and you get into a question of allocation.

5 Are we better off with a 2.2 percent fee increase
6 instead of a 2 percent fee increase if that .2 percent, if part
7 of it can be used in a way that increases the financial aid
8 possibilities for students who are really going to be shut out?

9 MR. GOULD: Right.

10 SENATOR BOWEN: What's your view of that?

11 MR. GOULD: Well, one of the things that the
12 University has been in the practice of doing for some time is,
13 when there is a fee increase, to dedicate one-third of that fee
14 increase to financial aid. I think that's a good policy, and I
15 think we ought to commit to that.

16 You know, that's a challenging question, and I'm
17 not sure I know precisely. I think we're going to have to
18 examine each time what the relative fee increase should be, but
19 that one-third being rededicated back towards low and moderate
20 income students, I think, is a very good thing to do.

21 One of the things that I noticed in looking at
22 the data for the system is one-third of the UC students are
23 considered to be low income students, and that's higher than
24 other public institutions throughout the nation. I think that's
25 -- that's a wonderful thing, that we've provided that kind of
26 access. We need to continue to work on that.

27 SENATOR BOWEN: My final question -- again, it's
28 going to be for all three nominees -- has to do with outreach.

1 The state's had kind of a rocky road with
2 affirmative action, and initiatives that made it difficult for
3 the University to attract a diverse student body.

4 In one of the programs where I serve on the
5 advisory committee, the Center for Embedded Network Sensing at
6 UCLA, there's a National Science Foundation requirement that
7 there be efforts at diversity involving a more diverse group of
8 students, particularly a challenge in a hard science.

9 What in your view can the Regents do to help
10 reverse the trend that we've seen at the UC towards less
11 diversity, or should we not worry about it?

12 MR. GOULD: Well, I think we have to worry about.
13 I think it's important for us to achieve broader diversity at
14 the University.

15 I think some of the outreach programs, we're
16 expecting a full report on that later this spring, but some of
17 the early reports on those outreach programs is that they've
18 been very successful. And I think that will give both the
19 Regents and the Legislature guidance on where those resources
20 are best placed, which of the programs are most effective, and
21 why are they most effective.

22 So, I look at that, coupled with a continuing
23 effort to improve just the fundamental K-12 system, and making
24 sure that the experience of going through those grades is one
25 that prepares people to enter a university curriculum as two
26 kind of important ingredients.

27 So, I think the outreach programs have been
28 successful. We'll know more when the report is published in

1 this spring. And I think that's something that the Regents are
2 going to pay a lot of attention to.

3 SENATOR BOWEN: So, the answer is, we really need
4 to wait for the report?

5 MR. GOULD: I think we all support the outreach
6 programs, and we're going to continue to support them because we
7 want to achieve greater diversity.

8 The issue is, which one of those programs is most
9 successful in achieving that.

10 CHAIRMAN PERATA: You can respond to this if you
11 want, but you can be the decider of that.

12 There have been reports that have been issued,
13 and I think it might have gotten to the point that Senator
14 Ashburn was mentioning, but reports come back from the UC Office
15 of the President that are, generously put, nonresponsive. I
16 differentiate it between analysis and typing, and you sort of
17 get typing back. And my first instinct is to feel that that's
18 in an effort to be nonresponsive and to obfuscate.

19 As much as you can, I would urge you to impress
20 upon the University that it is important that when colleagues of
21 mine or the Assembly, regardless of what people might think of
22 us, it doesn't matter, they should be as attentive to that and
23 as responsive as possible, both in timeliness and content.

24 The other question I would ask is, I would not
25 want to serve in your capacity with the staff support
26 arrangement that exists today. I'd want to have some
27 independence. Somebody who, when I pick up the phone, is
28 working for me and working for those that have appointed you.

1 So, I would like you to consider, and we're going
2 to consider it in the budget process, to earmarking money to
3 allow the Regents to have their own staff.

4 You're not going to gets 175 FTEs right away,
5 but -- I think you've been in this business awhile -- you work
6 your way up to it, you can have your own bureaucracy.

7 But I do think it's important. Just so you can
8 indulge me, you don't have to say you think it's important.
9 Just nod and say, "Good idea, Don."

10 MR. GOULD: It sounds like an excellent idea.

11 [Laughter.]

12 CHAIRMAN PERATA: That's what I thought.

13 Would you like to sum up?

14 MR. GOULD: No. I just appreciate the
15 opportunity to appear before you, and the conversations I had to
16 have with many of you before this hearing. So, I look forward
17 to, if confirmed, continuing the conversation and hopefully
18 success for the University system.

19 CHAIRMAN PERATA: We have a rolling motion
20 here.

21 SENATOR BATTIN: Move to approve.

22 CHAIRMAN PERATA: There's no opposition, is
23 there? Anyone here who wants to oppose this fine man?

24 Diane, did you want to say some negative things?

25 [Laughter.]

26 SENATOR BOWEN: This is your chance to get your
27 life back for the next twelve years.

28 CHAIRMAN PERATA: I think you said plenty in

1 writing.

2 Maybe your family members would like to come up
3 and take a shot at you?

4 [Laughter.]

5 MR. GOULD: That's high risk.

6 CHAIRMAN PERATA: How does the sister-in-law
7 feel?

8 [Laughter.]

9 CHAIRMAN PERATA: Please call the roll.

10 SECRETARY WEBB: Ashburn.

11 SENATOR ASHBURN: Aye.

12 SECRETARY WEBB: Ashburn Aye. Bowen.

13 SENATOR BOWEN: Aye.

14 SECRETARY WEBB: Bowen Aye. Cedillo.

15 SENATOR CEDILLO: Aye.

16 SECRETARY WEBB: Cedillo Aye. Battin.

17 SENATOR BATTIN: Aye.

18 SECRETARY WEBB: Battin Aye. Perata.

19 CHAIRMAN PERATA: Aye.

20 SECRETARY WEBB: Perata Aye. Five to zero.

21 CHAIRMAN PERATA: Congratulations.

22 MR. GOULD: Thank you very much.

23 CHAIRMAN PERATA: Our second member Regent is
24 Eddie Island, and I'd like to ask him to come forward.

25 I've already asked him. This is not a stage
26 name. This is his given name when he was born and christened.

27 So, welcome.

28 MR. ISLAND: Thank you, Mr. Chairman.

1 Senators, I'm humbled to be here today. And I
2 say that in the context of my life trajectory, which isn't
3 natural that I would end up here before you for confirmation of
4 an appointment to one of this state's critical functions, the
5 University of California.

6 I was born into grinding poverty in the deep
7 south, a segregated society, without the resources that one
8 would expect a child to have.

9 Through good fortune and hard work, and sometimes
10 the pure kindness of strangers, I ended up in college, from
11 which I graduated and went on to Harvard Law School. I got
12 through school on loans, grants, handouts, work effort.

13 I'm particularly sensitive to access. I'm
14 particularly sensitive to affordability. I'm particularly
15 sensitive to giving kids who were born into less than ideal
16 circumstances entry into this great American dream of ours.

17 Sometimes it's easy to forget, if we care to
18 remember at all, that we are born into different circumstances,
19 and we have different opportunities. And I don't think my
20 personal experience would allow me to believe for a moment that
21 we should expect every child born into the circumstances into
22 which I found myself to repeat my life. That can't be the
23 standard. I think it's not the humane approach to organized
24 society.

25 I think we've got to have policies and structures
26 to reach out, to support, to help those who are less fortunate.
27 That's the perspective that I bring to my presence here. That's
28 the perspective that I would bring to the Board of Regents.

1 My life experience has disciplined me in a
2 pattern of thought that says that hard work and effort are
3 indeed a part of what you need, but it isn't all that you need
4 because sometimes it won't get you there. You also need a
5 structure, a government, that will reach out and help those who
6 are less fortunate. And that's part of UC's role.

7 UC, when you think about it, is truly the engine
8 of opportunity for people who are born into less fortunate
9 circumstances. It provides a chance to get into the great
10 American middle class. It provides an opportunity to help grow
11 the wealth of this state.

12 And I've said to everybody that will listen, we
13 need to make sure that all of the residents of this state are
14 educated to best of their ability, and that they are
15 participating in growing the wealth and opportunity of this
16 state. And that's part of UC's mission.

17 I'm here today at an interesting time. The
18 University has had some embarrassing articles about the
19 stewardship of its function. I'm embarrassed about that
20 conduct. I hope it's never repeated, if it's true.

21 But I commit to you that if I am confirmed, I
22 have some principles that will assist in making sure that these
23 actions are not repeated.

24 I believe that we have a public responsibility
25 not only to reveal the decisions we make, but to explain them.
26 And it may be that we will not convince everybody of a
27 particular decision. But I believe we owe it to the public as a
28 public function, as a public agency, to explain our actions.

1 Any decision that's made and put in a drawer and hidden away is,
2 by definition, suspect. All decisions ought to be public except
3 to the extent that it would reveal inappropriately personnel
4 matters of employees. So, I bring a commitment of transparency.

5 I also bring a commitment of business
6 discipline. Some of the University's processes and procedures
7 are not as robust as they should be. I think we now have an
8 opportunity to change that, to focus on that. First, find out
9 specifically where the problems are, and then make a commitment
10 to you, and the public, to the students, to the faculty that
11 we're going to put into place rigorous processes, procedures,
12 and the energy to supervise them. Doesn't do any good to have a
13 process in place only to have it go unsupervised, unmonitored.
14 That's part of our responsibility. So, I commit to you to do
15 that.

16 I also commit, without much elaboration, that I
17 would like to see the University continue on the trajectory of
18 the highest quality public university in the world.

19 At the same time, I'd like to see the University
20 take a leading role in assisting those in California who make an
21 effort to get into the University to succeed once they get
22 there. So, I believe in diversity. I'm a product of it. I
23 believe in open access. I'm a product of it. And so, it'd be
24 natural, then, that my life experiences would say that I would
25 bring these to the Board of Regents.

26 I want to close my opening remarks by saying to
27 you that the Regents that you are meeting today have a great
28 opportunity. We don't have the baggage of having served, long

1 serving; we're new. We hear the questions you're asking. We
2 hear your concern.

3 I believe your concern is legitimate. I have the
4 same concern, so I don't reject it. I welcome it, and I'm open
5 to it. And I want to take the message back of transparency, of
6 being cooperative, of opening up the books, supplying data,
7 being responsive; all of those things public agencies ought to
8 do. So, I believe that, and that's the message that I would
9 bring to the management of the University.

10 So with that, I'll stop and take any questions
11 you may have for me.

12 CHAIRMAN PERATA: Thank you.

13 Members?

14 You must have been a hell of a litigator.

15 I appreciate the fact that all of you really see
16 this the same way we do, that we are in this together, and we're
17 going to succeed or fail collectively.

18 The questions that were asked previously, I think
19 you've pretty much covered, and certainly the concerns that I
20 have, both in our previous meeting and right now. You've
21 confirmed that.

22 I did want to acknowledge publicly that after 35
23 years, your son got a job.

24 [Laughter.]

25 MR. ISLAND: I welcome that most of all.

26 CHAIRMAN PERATA: Mr. Island's son is now a
27 full-blown practicing surgeon of liver transplants in Miami, but
28 it took him eleven years to get the job. He ran the string out

1 pretty well.

2 MR. ISLAND: He did indeed.

3 CHAIRMAN PERATA: Anyone here that wants to --
4 I've already told you that we don't take opposition to things
5 like this. These are nice people, and they should not be
6 subject to any criticism.

7 I chased your sister-in-law right out of the damn
8 building; didn't I?

9 [Laughter.]

10 CHAIRMAN PERATA: Offer my apologies.

11 SENATOR BOWEN: I do have actually a couple
12 questions that are directly from your answers, that I just
13 thought a little clarification might be helpful.

14 The question about the roles and responsibilities
15 of the Regents. You answered that it's your belief that the
16 Regents are appropriately involved in major decisions, and that
17 the Board's supervision of the Office of the President is
18 adequate.

19 And in the following question, which deals with
20 the Regents' oversight capacity, you answered that you believe
21 the current system has adequate checks and balances to allow the
22 Regents oversight.

23 I've been here 13 years. This is the second
24 major crisis in that 13 years, and I'll be leaving. If
25 something doesn't change pretty significantly, I have no doubt
26 that there will another major crisis. None of the current
27 people sitting around this horseshoe will be around for it, but
28 you will be.

1 I'm concerned about those answers. Maybe it's
2 just the way I'm reading it, but it seems to me that an adequate
3 oversight process would have uncovered some of the issues that
4 are the source of the current crisis before they became a crisis
5 and a scandal.

6 MR. ISLAND: If I might, Senator, put my answer
7 into further context, I would respond as follows.

8 Even the most rigorous of systems cannot weed out
9 wrong doing. Even the most robust system cannot weed out
10 misjudgment.

11 And I believe we will find at the end of the day
12 there were missteps of judgment. Then the question is, what do
13 we do about it? Do we heighten sensitivity to the staff of
14 consequences to missteps? And if we do, do we do it in such a
15 way that we send a message to people who are genuinely hard
16 working, and genuinely of good will, that we punish
17 appropriately?

18 To the extent that business practices need
19 changing, I want to change them. We manage a \$19 billion
20 institution, 200,000 students, 158,000 employees. That's a
21 major task. From time to time there will be problems.

22 I hope these particular problems will not repeat
23 themselves. But when they do, I think you have a responsibility
24 to call us to task and say, "Tell us what happened and what are
25 you doing about it."

26 And all I can assure you of today is that we have
27 three audits going. We are going to discuss at our next meeting
28 a best practices review. And to the extent that we turn up

1 improvements in our business structures in the organization,
2 organizational needs, we'll have to deal with that, and I hope
3 we do it robustly.

4 But I want to assure you, I am not suggesting
5 that these problems are small. These are big problems. They're
6 big because the public has no tolerance for mismanagement of the
7 trust that we have, and they should not have tolerance for it.

8 It's the principle behind the publicity that
9 matters. Was there transparency? Were the decisions themselves
10 quality decisions? And we're going to find that out, and we
11 will take appropriate actions.

12 I assure you, that would be my position, and I
13 would argue for that.

14 SENATOR BOWEN: My concern about that answer, and
15 I do like your formulation of it, is that you're dealing with
16 systems that no system in the world can possibly prevent either
17 mistakes or malfeasance. In life, I tend to believe that there
18 are more things explained by the mistake theory than by the
19 malfeasance theory.

20 One of the principles of engineering a system is
21 that you provide a sufficient number of avenues of review, or I
22 think the whole principle of democracy, of checks and balances,
23 is intended to uncover as many issues and concerns before they
24 become a crisis as after.

25 And what I hear you saying is that the current
26 system is adequate. And that if there's a crisis or a problem,
27 that it's fine to respond to it with audits.

28 And what my observation has been, and I think the

1 perception among many in the Legislature, is that UC has a
2 culture, and I think Senator Perata referred to it.

3 You were so genteel and careful in your way of
4 describing it, of not being sufficiently responsive.

5 CHAIRMAN PERATA: Just today, or generally in my
6 life?

7 SENATOR BOWEN: Just today. It was probably a
8 mistake.

9 That basically we don't get a response. And once
10 a problems uncovered, that the response is generally to hide it
11 further, or to deny that there's a problem.

12 That, I think, is really a system's issue, and
13 one that requires another look at the systems that are in place,
14 or not, for the Regents to be involved.

15 Because the UC is a constitutional institution,
16 that supervision must come from you. It cannot come from me, or
17 Mr. Ashburn, or Mr. Perata, or Mr. Battin, or Mr. Cedillo. It
18 can only come from the Regents.

19 MR. ISLAND: I think your comments are well
20 taken.

21 I would say in addition that systems do not
22 dictate the culture of an institution. You can have the most
23 rigorous system ever, and a culture, a way of doing things, can
24 override the discipline of a system.

25 And sometimes, I fear, we have that here. I
26 don't know. I've only been on the Board eight months.

27 One could debate forever what level of detail
28 should be brought to this Board on a day-to-day basis, how much

1 responsibility to give a president whose job it is to manage an
2 institution of this magnitude. Should Regents get involved in
3 decision making of hiring and firing, and the circumstances of
4 hiring and firing?

5 The recent revelations suggest that we need to
6 look at the problem carefully, understand it. And in
7 particular, I advocate caution that we don't disrupt and destroy
8 the morale of an organization and an institution that truly is
9 dedicated to its agenda. Mistakes I can understand, but
10 malfeasance I have low tolerance for. But there will be
11 mistakes.

12 And I'll assure you this. Under no circumstance
13 will I ever agree that problems of the magnitude that have been
14 advertised recently and reported in the paper are small
15 problems. They're not small problems. The issues behind them
16 are large. The dollars are relatively small, given the overall
17 budget, but the issues are large.

18 SENATOR BOWEN: I think that your view of where
19 we look to determine the morale of the institution ends too high
20 up in the organization.

21 I spent perhaps an undue amount of time talking
22 to professors who are actually the people who are teaching
23 undergraduates. And the morale in those quarters, where they
24 actually have the interaction with the most students is greatly
25 diminished by the kinds of things that we have seen in the past
26 couple of months. They feel like our budgets are being cut, our
27 teaching load has increased, and yet we have, in higher levels,
28 extraordinary salaries, undisclosed perks, and yet our class

1 load and teaching load goes up.

2 So, I would ask you, when you evaluate what the
3 morale of this great institution is like, to go spend some days
4 with classroom professors who are actually there at the teaching
5 level and find out how their morale and the morale of the
6 students that they teach is affected by what they see when
7 tuition is going -- fees are going way up. And then what you
8 get is a disclosure about compensation.

9 And again, perhaps this would be different for me
10 if I hadn't been through this in the early '90s. A little
11 different, but the same kinds of issues.

12 So, I am seeing a pattern over time. You've been
13 there eight months. You're only seeing eight months' worth of
14 it.

15 But I think our goal is the same, which is that
16 the quality of the experience that the students have is as
17 important as whatever is going on on the research side, because
18 so many more peoples' lives are touched that way.

19 So, I'm just concerned about, it feels to me like
20 you're being very defensive of the management, and perhaps I'm
21 hearing that wrong.

22 MR. ISLAND: I had attempted to put a context to
23 those responses that would say to you that I am dedicated to
24 best practices, good management, carrying out the fiduciary
25 responsibilities we have to supervise the University.

26 And I suppose I was trying to carve out an issue
27 that I think is important, and that is that we move with some
28 care. You don't turn around a \$19 billion organization without

1 creating something in its wake. And I don't want to harm this
2 wonderful institution of God because we've had some missteps.
3 I want the corrective action to be improvements.

4 So, to the extent the audits say we need to take
5 certain steps, we need to take back certain delegations, I'm
6 prepared to certainly study it and look at it, give it real
7 consideration.

8 SENATOR BOWEN: There are some intermediates,
9 too. One of the ways you deal with systems is, you say, "Let's
10 look at concern things and then decide whether we need to go
11 further." We do that here every Wednesday.

12 One final question has to do with the outreach
13 program, and again based on something that you wrote, which was
14 that you supported the return of the 17.3 million.

15 I think my concern, once again, is historical.
16 In 2000-2001, we spent \$85 million on outreach programs, and it
17 has gone down steadily over time. So, my guess is that your
18 view of this is, again, that someone's been there and is looking
19 at what was cut from the previous year's budget.

20 But we have in past years spent almost five times
21 that much money doing our outreach programs.

22 So once again, I would ask that you take a look
23 at what the University was doing in 2000-2001, and it's
24 obviously not just a matter of how much can we spend, but where
25 do we get the best results. But we've had major changes in the
26 law.

27 MR. ISLAND: I hope that the analysis that we
28 have under way will give us some insight into the effectiveness

1 of how we've managed the program and how we've spent the money.

2 But outreach is critical from my perspective. It
3 is a way to help kids who've grown up neighborhoods where the
4 schools have been less than the best, where the opportunities to
5 excel have not been there.

6 And to the extent that we can spend a relatively
7 small amount of the money and get terrific results by having
8 these kids admitted, succeed, go on to graduate school, get
9 jobs, become full participants in our economy, that's a very
10 good thing.

11 So, I support it, but like I said, I fully agreed
12 with the idea of studying it, and looking at it to see if we're
13 making the best use of the funds.

14 SENATOR BOWEN: Thank you.

15 CHAIRMAN PERATA: Any family or anybody that
16 you'd like to finger?

17 MR. ISLAND: No.

18 CHAIRMAN PERATA: We have a motion to approve.
19 Call the roll, please.

20 SECRETARY WEBB: Ashburn.

21 SENATOR ASHBURN: Aye.

22 SECRETARY WEBB: Ashburn Aye. Bowen.

23 SENATOR BOWEN: Aye.

24 SECRETARY WEBB: Bowen Aye. Cedillo.

25 SENATOR CEDILLO: Aye.

26 SECRETARY WEBB: Cedillo Aye. Battin.

27 SENATOR BATTIN: Aye.

28 SECRETARY WEBB: Battin Aye. Perata.

1 CHAIRMAN PERATA: Aye.

2 SECRETARY WEBB: Perata Aye. Five to zero.

3 CHAIRMAN PERATA: Congratulations to you.

4 MR. ISLAND: Thank you, sir.

5 CHAIRMAN PERATA: And our final contestant this
6 afternoon is Leslie Schilling. Please come forward and open
7 fire.

8 MS. SCHILLING: Good afternoon.

9 I don't really have a prepared statement, but I
10 thought if I just explained my backgrounds.

11 I was born in New York, grew up in Hong Kong, and
12 came to attend UC Berkeley where I graduated in 1976. Berkeley
13 is a life-changing experience, I think, as most people who go
14 through there will tell you.

15 CHAIRMAN PERATA: People who drive by will tell
16 you.

17 [Laughter.]

18 MS. SCHILLING: But what Berkeley did for me was
19 to show me how wonderful, how great America truly is, because my
20 best friend became -- a postal worker's daughter -- and she was
21 far brighter, far better in classes than I was, and I'm from a
22 fairly privileged background. And it just showed me that when
23 you educate people from all walks of life, wonderful things can
24 happen, great opportunities can be had.

25 Coming from a cultural background, being Chinese,
26 where we pretty much worship education as a means of coming out
27 of poverty, I find that the UC system is probably the greatest
28 asset in -- that California has. And I'm really honored to have

1 a chance to continue to -- continue that excellence at UC, and
2 create even more access, if possible, and certainly
3 affordability, because I believe that no person who can qualify
4 to attend UC should be turned away because of financial
5 difficulty.

6 Having said that, I would be looking to spend
7 more time up here in the Capitol to try and regain some of the
8 trust that I think has eroded between UC and the government,
9 because I think this is a partnership. I don't think that the
10 Regents can do this on their own. I don't think -- I think that
11 we need to hear what the public is saying, hear what you, as the
12 representatives of the public, have to say, and work together to
13 maintain this excellence.

14 So, if I may, I'll answer some of the specific
15 questions.

16 I agree with my fellow Regents, Gould and Island,
17 that we need to look again at the governance of UC. And that
18 the way that business has been handled around UC may not be the
19 best way to conduct business. And that something that fit 20
20 years ago may not fit today.

21 So, I would like to discuss with my fellow
22 Regents to look again at how business is done and see if we can
23 find better practices.

24 Certainly I agree that we should hold the
25 President accountable for the rules and regulations and
26 procedures that we have put in place, that he is supposed to be
27 following.

28 As to the fee policy, I believe that families try

1 to budget for their future expenses to the extent that they can,
2 and that we are not doing them any favors by having boom and
3 bust years, where you have no increase one year and 15 percent
4 the next year. I think that we should try for some
5 predictability, whether it's a small increase every year to
6 cover, so that even in good years, we have maybe a reserve to
7 cover bad years. When we create our own reserve, and we're not
8 always beholden to the government, what happens at the
9 government level.

10 I supported the one-third return to aid in the
11 fee structure, and I wish it could be higher. But as I pointed
12 out to some people the other day, it's not -- the fee themselves
13 are slightly under \$8,000. So, that is only a fraction, maybe
14 one-third of the entire cost, because it's the cost of living in
15 a lot of these communities that are prohibitive. And that is
16 not something that the University can do anything about.

17 But working together, again, with the Legislature
18 and the public, hopefully there's a way for us to raise more
19 money to help these kids out, because it's a pretty big burden.

20 Senator Perata, the idea of outside staff, it
21 would be great to be able to pick up the phone and call
22 somebody, and your own people, and get some answers. I think
23 the -- and I think that we should certainly consider that.

24 But I think there's a deeper problem, and that is
25 that the culture is one where there does seem to be some
26 question of secrecy, or some issue of secrecy. And I think that
27 you have to -- because even if we had our own staff, we would
28 still be relying on the information that comes from inside.

1 And so, I think that trust has to be rebuilt there, and that the
2 culture may have to be changed so that -- so that we can rely on
3 the information that is given.

4 And I was surprised to hear about the lack of
5 information that is forthcoming. And certainly that's something
6 that should not be the case, because the last thing you want to
7 do is bite the hand that feeds you. And it seems to me that by
8 rattling your cages by not providing you the information you
9 request, all we're doing is shooting ourselves in the foot. So,
10 I will certainly be asking about trying to provide more
11 information to you as requested.

12 CHAIRMAN PERATA: Great.

13 Questions?

14 Thank you. Why don't we put you at ease. I had
15 a couple of closing comments.

16 Do you have family here that you'd like to
17 introduce?

18 MS. SCHILLING: Just a very close friend, Linda
19 Yang and Maelee Tom.

20 MS. YANG [FROM THE AUDIENCE]: I'm so delighted.
21 I'm Linda Tsao Yang.

22 More than 40 years ago my husband answered a call
23 of University of California and came to Davis in '64 to be a
24 founding member of the Department of Mechanical Engineering, and
25 really was -- we were so impressed. I did not know where Davis
26 was. I lived in Connecticut.

27 But we were so impressed by Governor Pat Brown's
28 Master Plan for Higher Education, and we wanted to be a part of

1 it, so we came more than 40 years ago.

2 Being a nosy faculty wife for several decades, I
3 do have some understanding about what higher education is all
4 about, and how hard the kids work, particularly those who,
5 through no fault of their own, were born into less advantaged
6 circumstances. And how, over the years, I saw them blossom.

7 And my husband's greatest joy was to see his
8 students coming back and tell him what they're doing,
9 particularly in some cases. There was one student who said,
10 "I'm learning how to apply the theories you taught me to design
11 better instruments or lifts for the buses for the disabled so
12 they can access the buses and to go around." And that was
13 great.

14 Myself, my education is an economist, but I work
15 for the State of California, and I work for the federal
16 government.

17 But what Leslie has today is the one I always
18 wanted. That's the job. I said to former Governor Jerry Brown,
19 I said, "Why did you appointment me the Savings Loan
20 Commissioner?" I really wanted to be a UC Regent.

21 I'm very glad Leslie has it. She really will do a
22 wonderful job. Her mother and I were classmates.

23 Thank you.

24 CHAIRMAN PERATA: Well, Jerry Brown was a
25 contrarian. That's why he did that. But he no longer is. He's
26 a conservative.

27 Thank you very much. We appreciate you being
28 here.

1 Maelee, always a pleasure.

2 Can we have a roll call, please.

3 SECRETARY WEBB: Ashburn.

4 SENATOR ASHBURN: Aye.

5 SECRETARY WEBB: Ashburn Aye. Bowen.

6 SENATOR BOWEN: Aye.

7 SECRETARY WEBB: Bowen Aye. Cedillo.

8 SENATOR CEDILLO: Aye.

9 SECRETARY WEBB: Cedillo Aye. Battin.

10 SENATOR BATTIN: Aye.

11 SECRETARY WEBB: Battin Aye. Perata.

12 CHAIRMAN PERATA: Aye.

13 SECRETARY WEBB: Perata Aye. Five to zero.

14 CHAIRMAN PERATA: Congratulations.

15 MS. SCHILLING: Thank you.

16 CHAIRMAN PERATA: I wanted to, in closing of the
17 three confirmations, first of all, to acknowledge to both the
18 Governor and the Governor's staff that these are three
19 outstanding appointments. They would be in any administration,
20 and I'm just delighted that as much care and emphasis has gone
21 into the selection process as it obviously has been.

22 And to let everybody know that your written
23 responses as well as your verbal responses will all be part of
24 the transcript, so we're not giving short shrift to anything
25 that was written or said.

26 If you'd like to put them up on your own web
27 site, for a small fee we can make that possible.

28 [Laughter.]

1 CHAIRMAN PERATA: There is just a number of
2 points to reemphasize. One is that the University is only
3 really as good as the public confidence in it. You've all
4 touched on that. I believe that you're all absolutely committed
5 to that, which is one of the reasons that I think Regent Gould's
6 idea of doing a fiduciary audit makes a great amount of sense.

7 I've also discussed with Chairman Parsky his
8 concepts of maybe needing to look at a different way to manage
9 the University, where people who come from academia and arrive
10 at a position that has a lot of elements to it, not the least of
11 which is managerial excellence, might require a different
12 review.

13 I've been following with some interest what's
14 been going on at Harvard and Larry Summers, and I must say I've
15 been watching it with delight. You know, public universities,
16 private universities, are not immune to the same kind of
17 politics, and in some cases cannibalization.

18 Not that we should take any heart in somebody
19 else's difficulties, but it does indicate just how difficult a
20 job it is that you're faced with.

21 We are here as Members of this body, both the
22 Rules Committee and the Senate as a whole, we are here
23 representing really the same interests that you represent, the
24 same people that you represent.

25 We've been honored by the selection of our
26 position by those who we represent, the same way that you are
27 honored by the Governor and by your life's work.

28 But we are really here to work together. And

1 when Leslie mentioned about coming up here as Regents in your
2 singular roles, or individual roles, come up as advocates for
3 the University. In terms limits, we just don't have
4 relationships like we used to have, the times when Russ was here
5 serving in the administration.

6 So, it's very important that, as Senator Battin
7 said, you'll have your life span, your term on the Regents will
8 exceed anybody here. So, it's important that you come up, and
9 you talk with us, and represent the interests of the University.

10 We should not only see the University when it's
11 either under siege or when we're talking about a budget. And
12 there are many things that we could learn simply by you
13 recounting what your last meeting was like.

14 So, I want to urge you to do that. I've told
15 you, and I will say again, that personal access to me, and I'm
16 sure to my colleagues, will be without question. There are a
17 finite number of us, and we're honored to have the jobs that we
18 have, and there are a finite number of you. So, we should make
19 the most out of how few of us there are, and if nothing else, we
20 can all be beleaguered together.

21 Affordability, you've touched on that. And I
22 would just say that you have gone through what it is that you
23 now advocate. And I just want to thank you and underscore that
24 that's something else that we'd like to help you with and make
25 sure.

26 And then finally, I'd like to make sure that we
27 keep our University competitive. I have, and I'm sure that
28 there are many stories that would far exceed this particular

1 instance, but I had a talk with a member, somebody in the Bay
2 Area community, and asked me to take a phone call or e-mail from
3 a professor at Berkeley. And she was telling me about the
4 recruitment that was going on by an unnamed eastern school. And
5 they had a lot to offer: a 70 percent salary increase over what
6 she was receiving; a much larger research fund; and assistance
7 in housing.

8 Of course this place is, well since the
9 "Sopranos" maybe it's become as expensive in New Jersey, but
10 probably not.

11 And also the fact that her husband was a full
12 professor, and that they were making the same kind of an
13 aggressive move, recruitment move, on him.

14 I know perhaps we can never rival, dollar for
15 dollar, or opportunity for opportunity, nor should we have to.
16 This is, after all, California.

17 But we cannot be in that position and expect not
18 to lose our competitive edge.

19 So, that's something that you would be far better
20 off than I to provide suggestions on, what we do to remain
21 competitive. But it also needs to be not only in the area of
22 research, but I despair, and I hear the same things; and I know
23 from my own experiences that too often those who are in the
24 classroom teaching feel as though there is no appreciation for
25 the work done.

26 And also, and perhaps even more disturbingly,
27 that classroom teaching is less important than the research. It
28 is sort of a means to an end, and so we end up with TAs. And

1 there was even some suggestion in some of the materials that
2 I've read about Harvard that the TAs and graduate students were
3 given consideration, academic consideration, by their mentors in
4 order to cover the classes and free them up more for either
5 research work or other work.

6 It's a huge job. It's a difficult job. And I'm
7 just grateful that you're willing to do it. And I hope that you
8 will recognize that all of us here are here to serve you. Don't
9 be shy. I don't think the three of you are going to ever be
10 accused of that, but just in the off chance you ever have been,
11 you come and see us. Come and see us often. Rattle the cages
12 and provide solutions. Then you'll earn your dollar a day,
13 whatever it is that you're paid.

14 With that, God speed and thank you very much.

15 We just have the mundane part of the agenda now,
16 but this has been really good. And fast, too.

17 Thank you all very much.

18 [Thereupon this portion of the
19 Senate Rules Committee hearing
20 was terminated at approximately
21 2:46 P.M.]

22 --ooOoo--

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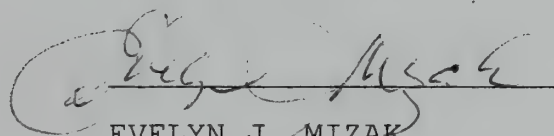
CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of March, 2006.


EVELYN J. MIZAK
Shorthand Reporter

APPENDIX

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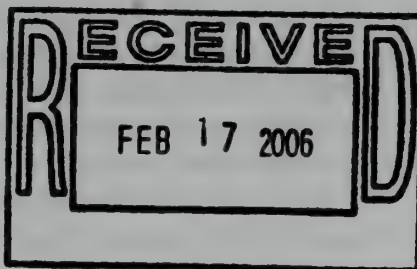
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

RUSSELL S. GOULD
Regent

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February 17, 2006

Nettie Sabelhaus
Appointments Director
Senate Rules Committee
State Capitol, Room 420
Sacramento, CA 95814



Dear Ms. Sabelhaus:

Thank you for your letter of January 26 concerning my upcoming March 1 confirmation hearing before the Senate Rules Committee. As requested, please find attached an updated Form 700, Statement of Economic Interest. The responses to the questions posed are contained in this letter. I would be happy to elaborate my thoughts on any of these matters either prior to or at the March 1 hearing.

Goals

1. *Please provide a brief statement of goals you hope to accomplish while serving on the University of California Board of Regents.*

My goals as a Regent are to ensure that the University of California maintains its excellence as an institution and provides access and affordability to our future students. UC provides an exceptional opportunity for students and is a key factor in California's economic future. This can only be accomplished if the excellence of the system is maintained.

2. *You have been assigned to serve on the Audit, Finance and Health Services committees. What specifically would you like to accomplish while serving on these committees?*

Relative to the Audit Committee, I want to ensure that the University commits to best practices on its financial reporting. As a member of the Finance Committee I want to work on the financial capacity of the system to achieve its objective over the long term. While year-to-year decisions are critical, I would like to promote longer term financial planning as a standard practice for the system.

Relative to the Health Services Committee, I would like to ensure that we focus on our mission of research and teaching and provide quality care for our patients. Another personal objective is to work with the system to maximize resources from both state and federal healthcare programs.

Roles and Responsibilities

3. *What do you believe is the appropriate role for the University of California Regents in setting educational policy and providing oversight of the UC system? As you make policy decisions and provide oversight, do you believe you get sufficient and timely information to make the best decisions?*

The Regents should provide policy direction to the President and the Chancellors on educational policy. These decisions would be with the input of the Office of the President, Chancellors, faculty, alumni, and students. It is the responsibility of the President and Chancellors to implement that policy and report back to the Regents on the results of that direction. As additional modifications are needed, they should be adopted by the Regents and monitored to ensure that the policy objective is met. I cannot comment on the timeliness of information given my recent appointment to the Board, but recognize that information we must insist that information be comprehensive, timely and accurate if we are to make reasonable decisions.

4. *Is there a need to strengthen the Regents' oversight capacity? If so, how would you propose strengthening this function? Would the Regents benefit from having its own staff independent of the system's staff?*

As evidenced by legitimate questions raised regarding UC compensation and disclosure practices, the Regents should undertake a review of the oversight capacity. One of my goals would be to work with fellow Regents on this assessment, and I believe independent staff or consulting expertise would be helpful in making sound recommendations and decisions.

Employee Compensation

5. *The Regents recently granted UC President Dynes discretion to increase salaries within large salary bands. How does this action improve the accountability of expenditures for salaries?*

I believe the recent action is a good step toward better accountability as it provides more structure and consistency in salary setting practices. This discretion is also linked to a newly established Regents Committee on Compensation to oversee these issues by rules that require that increases in excess of certain amounts and/or certain percentages (exceeding \$200,000 or 7.5% in 2005-06) will automatically require Regental approval.

In addition, the Board's January action requires that information on all other forms of compensation (stipends, relocation allowances, housing allowances, etc.) be reported to this group in conjunction with our review of both individual and aggregate salary increases.

6. *Does the University have a standard definition of a compensation package for employees? Is it the same definition for both management and faculty? Would it include the base salary and other cash or noncash compensation? Are the Regents provided information on both cash and noncash compensation included in salary packages for upper management?*

My understanding is that the University does not have a standard package, as the University must be prepared to respond to the total compensation requirements -- both base salary and benefits -- of the best-qualified individuals based on the market driven requirements for talent needed. Based on recent decisions, Regents will now be receiving an annual report on total compensation, both cash and noncash compensation for the Senior Leadership Group.

7. *As a public institution, your financial transactions are a matter of public trust. Do you think even after recent changes that there is sufficient transparency of the review and approval process concerning employee compensation packages? Please explain how the recent action of the Regents improved the transparency.*

As a public University, we must do a better job of ensuring that there is transparency in how University compensation packages are disclosed.

Recently, Regents' Chairman Gerald Parsky and President Dynes commissioned the Task Force on UC Compensation, Accountability and Transparency, chaired by former California State Assembly Speaker Robert Hertzberg and Regent Joanne Kozberg, and composed of additional independent representatives, business, media, higher education, and government -- to look at this question. It will review our current compensation disclosure policies and practices and recommend changes to achieve the University's responsibilities as a public institution while also protecting the personal privacy rights of University employees and search candidates as required by law.

This Task Force, coupled with the new salary framework and the reporting and approval process for compensation adopted by the Regents, should lead to improved, appropriate disclosure. The January Board action explained above also simplified lines of delegated authority for determining and setting compensation levels, and established reporting and disclosure requirements. Both of these elements are fundamental to ensuring sufficient transparency and enabling appropriate Regental oversight.

I am sure the Board will adopt additional policies and procedures as needed to ensure sufficient transparency once the Task Force completes its work.

8. *The UC Regents recently adopted a new policy requiring that they approve all severance agreements worth \$100,000 or more. Does this new policy also require the Regents to approve settlement agreements regarding employment? If not, should approval by Regents of such settlements be mandatory?*

The new interim policy on separation agreements does not deal with matters in litigation, only separation arrangements that are negotiated before any litigation is started. A decision matrix has been developed over time based on dollar thresholds which establishes when the President, General Counsel, or Regents may approve settlements. I believe this policy needs to be reviewed by the Regents to ensure that proper oversight is achieved.

Leave Policies

9. *Will the newly formed UC Regents Committee on Compensation be reviewing paid administrative leave policies and making recommendations?*

The newly formed Regents Committee on Compensation is responsible for all matters related to the University's compensation and benefits policies, procedures, programs, and practices. I believe the Committee must address the issue of paid administrative leave as part of its responsibilities and should make policy recommendations after they complete their review.

10. *Do you believe changes should be made to the paid administrative leave policy? If so, should such a policy limit the time frame in which an employee can be placed on paid administrative leave, similar to the earlier policy that limited paid administrative leave to three months? Should all paid administrative leave for senior employees require approval by the Regents? If so, should there be a compensation threshold that triggers this requirement?*

As I understand it, current Regental policy specifies no extended paid administrative leaves will be approved for Chancellors, Vice Presidents, or Laboratory Directors. The President also has authority to grant leave up to three months for Chancellors, Lab Directors, Senior Vice Presidents and Vice Presidents and up to six months for other Officers of the University; longer paid leaves require approval of the Regents for senior managers not holding academic titles qualifying for accrual of sabbatical leave credit. The Chancellors and Lab Directors may grant administrative leaves up to six months; beyond that the President or a Principal Officer of the Regents must approve. Finally, the University's investigative leave policy allows senior managers to be placed indefinitely on paid investigatory leave to permit the University to investigate actions.

I believe this issue needs to be part of the review of the Compensation Committee so that we have sound reasons for the purpose and length of any administrative leave. I would reserve judgment until that review and subsequent recommendations are presented.

Student Fees and Financial Aid

11. *Do you believe UC student fee and financial aid policies should be revised to address the issues raised by the Legislative Analyst's Office (LAO)? What do you believe are the challenges in crafting a student fee and financial aid policy that balance the need to keep fees reasonable while providing sufficient financial aid to help low- and moderate-income students?*

As part of the State's basic support for the University, it is my position that student fee increases should be gradual, moderate and predictable. This is fair to students, families and taxpayers.

The University's undergraduate student financial aid policy has a goal of maintaining the affordability so fees are not a barrier to access and that the cost of attending UC students is shared by students, their families, federal and state governments, and the University. I support the University's financial aid program to continue to direct one-third of student fee increases to financial aid for low-and moderate-income students.

12. *Does the University Grant Program provide grant aid to all students who are eligible for competitive Cal Grants, but do not receive them because of over-demand for the program? If not, do you believe aid to these students should be provided? What are the barriers to doing so?*

My understanding is that the number of students eligible for a Competitive Cal Grant exceeds the number of awards available under the program. In 2004-05, the University estimates that over 90% of these eligible non-recipients received a UC grant; the average UC grant for these students was \$5,150. In contrast, fewer than two-thirds of Competitive Cal Grant recipients also received a UC grant, and the average UC grant for these students was much lower (\$1,037).

I support the premise that financial barriers should not prohibit qualified applicants from attending the University. As such, I would support increasing the number of Cal Grants to meet our eligible student applicants.

Prison Medical Care

13. *Do you believe the University of California has a role in planning for the delivery of improved health care services in prisons and providing direct medical care to inmates vis-à-vis a formal relationship between the University of California medical facilities and the Department of Corrections? Please explain.*

Consistent with its public service mission, I do believe that the University has a role in planning for the delivery of improved health care services in California's prisons. In 2004, in order to assist in the planning process and work toward improved prison healthcare, the University entered into discussions with the California Department of Corrections and Rehabilitation (CDCR). The UC should continue to work with CDCR as task force members, committee members and consultants on an ad hoc, voluntary

basis. While I do not believe the University has the resources either financially or geographically to assume responsibilities for direct patient care of inmates, the UC should explore how the telemedicine initiative could assist appropriate providers in delivering quality care.

14. What would be the challenges for the university in providing these services?

Assuming responsibility for direct patient care to all CDCR inmates is beyond the University's primary teaching and research mission. Consistent with this mission, the University's health care facilities are fully engaged in educating and training physicians and health professionals and providing patient care. Taking on the additional and enormous job of providing direct patient care to California's 160,000 plus inmate population is beyond the University's already stretched capacity for patient care and resources. It would take substantial new resources and logistical relocation of personnel to assume that new responsibility and I am concerned that it would divert the University from its core research and teaching mission.

Student Academic Preparation and Outreach Programs

15. Outreach programs have been devised to increase access to a University of California education among students from disadvantaged backgrounds. Do you believe these programs are effective in achieving this purpose? If not, how would you recommend changing the programs so they are more effective? Is there a better way to increase interest and eligibility among these students?

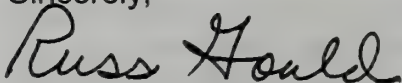
I support the goals of the outreach program because they are critical to the University's mission to serve the entire State.

I am awaiting reports from the President's Office relative to the success of these programs in achieving the objectives. Once we have the results of this review, we can target resources and reforms to achieve our mutual objectives.

I agree with outreach programs and the importance of improving the goals of public education in elementary and high schools to properly prepare all disadvantaged students for higher education at UC and any higher education opportunities.

Thank you for the opportunity to respond to some of your questions in advance of the March 1 hearing. I look forward to seeing you during my visit to Sacramento on February 21. If you have further questions prior to that or would like to discuss any of my responses, please call me.

Sincerely,



Regent Russell Gould

Attachment: Form 700



THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

E. R. ISLAND
Regent

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February 17, 2006

Ms. Nettie Sabelhaus
Appointments Director
Senate Rules Committee
State Capitol, Room 420
Sacramento, CA 95814

Via Facsimile (916) 445-0596

Dear Ms. Sabelhaus:

Thank you for your letter of January 26 concerning my upcoming March 1 confirmation hearing before the Senate Rules Committee. With regard to my Form 700, Statement of Economic Interest, no changes have occurred that would necessitate changes to my existing Form 700. The remainder of this letter contains my responses to the questions you posed. I would be happy to elaborate my thoughts on any of these matters either prior to or at the March 1 hearing.

Goals

1. *Please provide a brief statement of goals you hope to accomplish while serving on the University of California Board of Regents.*

During my tenure I hope to be a strong advocate of access to UC for poor and minority students. In particular, I will advocate effective academic preparation programs for under represented students who live and receive their education in school districts that do not prepare students for a rigorous UC learning experience. I will also advocate adequate financial assistance for these students.

2. *You have been assigned to serve on the Audit, Finance and Health Services committees. What specifically would you like to accomplish while serving on these committees?*

I hope to be a champion for poor and minority students who are currently under represented at UC. I would also like to return UC to the status of the university of choice for graduate education world wide. With regard to Health Services, I am keenly

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interested in making the benefits of UC's medical education and health services accessible to the underserved populations of California.

Roles and Responsibilities

3. *What do you believe is the appropriate role for the University of California Regents in setting educational policy and providing oversight of the UC system? As you make policy decisions and provide oversight, do you believe you get sufficient and timely information to make the best decisions?*

I believe that it is the duty of the Regents acting as a board to identify and adopt appropriate educational policy for the 10 campus UC system. The board carries out these duties through a combination of direct and as appropriate, delegated tasks. I believe that the Regents generally receive sufficient and timely information. It is necessary for the day to day operations for UC to be managed by the President of UC. I believe that the Regents are appropriately involved in major decisions and that the Board's supervision of the Office of the President is adequate.

4. *Is there a need to strengthen the Regents' oversight capacity? If so, how would you propose strengthening this function? Would the Regents benefit from having its own staff independent of the system's staff?*

The current system has, I believe, adequate checks and balances to allow Regental oversight. The Regents establish policy and must monitor its execution. For example, the Board's actions in January establishing policies for the setting, reporting and disclosure of compensation is an excellent example of the exercise of appropriate oversight by the Board. There may be some advantages of a separate, independent staff; however I would be very concerned about additional and perhaps competing, costly bureaucracies.

Employee Compensation

5. *The Regents recently granted UC President Dynes discretion to increase salaries within large salary bands. How does this action improve the accountability of expenditures for salaries?*

Even though the President has the authority to approve certain salary increases, the authority is rigidly constrained by:

- the oversight of the Regents Compensation Committee,

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- the salary structure itself and the fact that all Senior Leadership Compensation Group (SLCG) salaries must now conform to specific salary ranges,
- a fixed overall salary increase budget which the total of all salary increases may not, and
- the rules regarding how people may advance in their respective ranges, including the fact that increases in excess of certain amounts and/or certain percentages (exceeding \$200,000 or 7.5 % in 2005-06) will automatically require Regental approval.

So, while the University President has additional authority under RE-61, it's subject to very real limits and strict Regental oversight. In addition, as a Board, we will now require annual reports detailing:

- the specific amounts of all salary increases granted to members of the group and how the total increases granted compare to the pre-established budget;
- the actual salaries for all members of the group and how they compare to the midpoints of the ranges both before and after the salary increases; and
- how the University's salaries and the midpoints of the salary ranges compare to the average salaries paid by the other institutions with which the University competes for talent in the job classifications covered.

Finally, the Board's January action requires that information on all other forms of compensation (stipends, relocation allowances, housing allowances, etc.) be reported for this group in conjunction with our review of both individual and aggregate salary increases.

6. *Does the University have a standard definition of a compensation package for employees? Is it the same definition for both management and faculty? Would it include the base salary and other cash or noncash compensation? Are the Regents provided information on both cash and noncash compensation included in salary packages for upper management?*

The University doesn't have a standard definition, although there are standard components to a compensation package. Generally, the required compensation package is market-driven and the University must be prepared to respond to the total compensation requirements.

7. *As a public institution, your financial transactions are a matter of public trust. Do you think even after recent changes that there is sufficient transparency of the review and approval process concerning employee compensation packages? Please explain how the recent action of the Regents improved the transparency.*

Nettie Sabelhaus
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All University funds are public funds. I believe the University must do a better job of ensuring that there is sufficient transparency in how University compensation packages are reviewed, approved, and disclosed.

As you likely know, Regents' Chairman Gerald Parsky and President Dynes commissioned the Task Force on UC Compensation, Accountability and Transparency, chaired by former California State Assembly Speaker Robert Hertzberg and Regent Joanne Kozberg, and composed of national figures from the worlds of media, business, higher education, and government – independent of the University administration.

Part of the Task Force's charge is to review our current compensation disclosure policies and practices and recommend changes to achieve the University's responsibilities as a public institution while also protecting the personal privacy rights of University employees and search candidates as required by law. The Task Force's recommendations will help inform the work of the newly formed Regents' Committee on Compensation, as it works to ensure transparency, full public accountability, and proper Regental oversight of compensation matters at the University. I am confident the Board will adopt additional policies and procedures as needed to ensure sufficient transparency.

8. *The UC Regents recently adopted a new policy requiring that they approve all severance agreements worth \$100,000 or more. Does this new policy also require the Regents to approve settlement agreements regarding employment? If not, should approval by Regents of such settlements be mandatory?*

First, let me say that this is another issue that the full Board needs to reexamine. Settlement of claims was not addressed in the Regents recently adopted policy on severance agreements, but rather in a separate University policy. Currently, the full Board is required to approve a settlement agreement when the value exceeds \$500,000 or when significant questions of University policy are involved, regardless of the amount of the settlement. The current policy provides the President with authority to settle claims when the consideration paid or received by the University doesn't exceed \$100,000. The General Counsel has authority to settle claims and litigation when the consideration paid or received by the University does not exceed \$250,000. Settlements of claims and litigation having a monetary value between \$50,000 and \$250,000 are to be reported to the full Board by the General Counsel. Proposals for settlement of claims or litigation require prior approval by the Chairman of the Board and the Chairman of the Committee on Finance when the amount to be paid or received by the University has a value between \$250,000 and \$500,000.

Leave Policies

9. *Will the newly formed UC Regents Committee on Compensation be reviewing paid administrative leave policies and making recommendations?*

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The newly formed Regents Committee on Compensation is vested with responsibility for all matters related to the University's compensation and benefits policies, procedures, programs, and practices. While that Committee is not specifically charged with reviewing paid administrative leave policies, I expect the Committee will address the issue. In any event, the Committee is responsible for approving all elements of compensation -- including paid administrative leave -- for the University's top 32 positions.

10. *Do you believe changes should be made to the paid administrative leave policy? If so, should such a policy limit the time frame in which an employee can be placed on paid administrative leave, similar to the earlier policy that limited paid administrative leave to three months? Should all paid administrative leave for senior employees require approval by the Regents? If so, should there be a compensation threshold that triggers this requirement?*

The University has several policies governing paid administrative leave. As the President has publicly stated, and I agree, our policies need to be clear, precise, and enforceable, particularly when individuals hold both an academic and an administrative appointment. In terms of time limits or specific dollar thresholds triggering Regental approval, we, as a Board, need to ensure that we strike a balance between our fiduciary responsibility for oversight and undue delay and administrative complications associated with that review.

Student Fees and Financial Aid

11. *Do you believe UC student fee and financial aid policies should be revised to address the issues raised by the Legislative Analyst's Office (LAO)? What do you believe are the challenges in crafting a student fee and financial aid policy that balance the need to keep fees reasonable while providing sufficient financial aid to help low- and moderate-income students?*

The LAO is essentially advocating a "high fee/high financial aid" policy, which has -- to a certain extent -- been the state's implicit policy during recent budget crises. This approach has tested the University's ability to continue to enroll low- and middle-income students despite higher fees. However, to date, there is no sign that the University's fees have resulted in an enrollment decline among low- or middle-income students. That said, many students and their families experience "sticker shock" at higher fee levels, not understanding that the full cost of tuition and fees will be adjusted or "discounted" by financial aid for needy students. The danger is that many needy students may choose not to apply to universities that they perceive to be "too expensive." Moving towards a "high-fee, high-aid" model has been proposed in the past. To date, the State has been unwilling to fully embrace that approach and I agree with that decision.

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If the State can afford basic support for the University, it is my position that student fee increases should be gradual, moderate and predictable. Adequate State support is a critical component of a workable student fee policy to enable UC to maintain access under the Master Plan, to sustain academic quality, and to achieve the University's overall mission.

12. *Does the University Grant Program provide grant aid to all students who are eligible for competitive Cal Grants, but do not receive them because of over-demand for the program? If not, do you believe aid to these students should be provided? What are the barriers to doing so?*

Because the number of students eligible for a Competitive Cal Grant exceeds the number of awards available under the program, there are a sizable number of eligible students who do not receive an award each year -- as many as 10,000 at UC in 2004-05.

I believe passionately that financial barriers should not prohibit academically eligible students from receiving a UC education. I was pleased to learn that the University uses its institutional aid funds to supplement a student's Federal and State grants, as necessary, to ensure that the student is not expected to work or borrow at unmanageable levels. I understand the University typically backfills a portion of the missing Cal Grant. This means that a student who is eligible for a Competitive Cal Grant but who does not receive one will generally receive more UC institutional grant aid than a student who received a Cal Grant.

Prison Medical Care

13. *Do you believe the University of California has a role in planning for the delivery of improved health care services in prisons and providing direct medical care to inmates vis-à-vis a formal relationship between the University of California medical facilities and the Department of Corrections? Please explain.*

The University clearly has a role in *planning* for the delivery of improved health care services for all Californian's -- including those in the State's prisons. However, UC should not be in the business of providing *direct health care services* to inmates as this could compromise and detract from its primary missions of teaching and research. To assist the Department of Corrections in improving its inmate health care services, the University has efforts underway to enhance correctional physician evaluation and training as well as expand the University's telemedicine offerings.

14. *What would be the challenges for the university in providing these services?*

Assuming responsibility for direct patient care to all CDCR inmates is not within the scope of the University's primary teaching and research mission. Consistent with this mission, the University's health care facilities are fully engaged in educating and

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training physicians and health professionals and providing patient care. Removing these facilities from this important work by taking on the additional and enormous job of providing direct patient care to California's 160,000 plus inmate population is beyond the University's already stretched capacity for patient care. Attempting to assume that workload would divert resources from, and have a detrimental effect on, the University's ability to perform its primary mission of teaching and research by adding administrative burdens and costs that are not in keeping with this mission.

Student Academic Preparation and Outreach Programs

15. *Outreach programs have been devised to increase access to a University of California education among students from disadvantaged backgrounds. Do you believe these programs are effective in achieving this purpose? If not, how would you recommend changing the programs so they are more effective? Is there a better way to increase interest and eligibility among these students?*

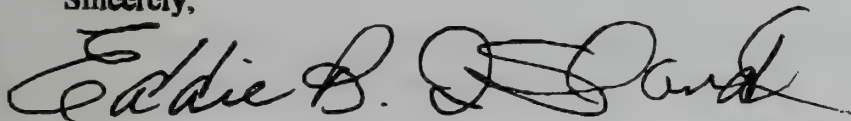
I support the restoration of the \$17.3 million in state support for these programs because they are critical to the University's mission to serve the entire state.

Preliminary results from a new framework for measuring the success of the University's academic preparation programs show they are working – more students are completing the University's admission requirements, going to college, passing the California High School Exit Exam, and enrolling in graduate study, among other measures. These programs have also leveraged funds from other sources.

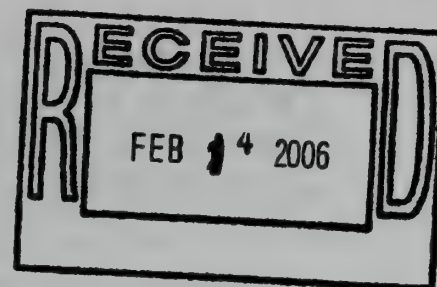
These results are very encouraging. I believe we should not change these programs until after we have received a thorough review of their results from the new evaluation framework.

Thank you for the opportunity to respond to some of your questions in advance of the March 1 hearing. I look forward to meeting you during my visit to Sacramento on February 23. If you have further questions prior to that or would like to discuss any of my responses, please call me.

Sincerely,


Eddie R. Island

LESLIE TANG SCHILLING
One Union Square
180 Geary Street, Suite 500
San Francisco, California 94108



February 13, 2006

Nettie Sabelhaus
Rules Committee Appointments Director
Senate Rules Committee
Room 420
State Capitol
Sacramento, CA 95814

Dear Ms Sabelhaus,

I was asked by Senator Don Perata to send you the answers to questions posed by the members of the Senate Rules Committee. They appear below. I have also enclosed my updated Form 700. I look forward to attending the hearing on March 1.

With best wishes,

Leslie Schilling

Goals

1. Please provide a brief statement of goals you hope to accomplish while serving on the University of California Regents.

As a Regent, I would work to maintain the academic excellence of UC, improve accessibility to all segments of the population and increase accountability in the way we conduct our business. The recent Senate hearings on UC's compensation practices make it clear that a lot

of work has yet to be done to increase our accountability. This will be my first priority. At the same time, we must seek creative ways to improve the ability of students from disadvantaged backgrounds to qualify for, attend and graduate from UC.

2. You have been assigned to serve on the Audit and Grounds and Buildings committees. What specifically would you like to accomplish while serving on these committees?

As a member of the Audit committee, I will work to improve the reporting of the University finances and ensure the financial reporting is fair and accurate. The Regents have recently called for an audit of the compensation practices over the past few years. I look forward to reading that report and working with the Audit Committee and other Regents to address the issues raised by the audit report. . Where necessary we will continue to use the services of an outside auditor who will bring objectivity to the reporting. As I become more familiar with the operations of UC, I am interested in understanding more about the administrative processes in place, and how the Audit Committee might recommend changes to increase accountability. Although not strictly the responsibility of the Audit Committee, a change in the culture at UC in terms of accountability is in order. I will work to help change the culture to increase the sense of responsibility for disclosure in the public environment.

As a member of the Grounds and Buildings committee, I would like authority for planning and building consolidated into one position across the campuses to make the process more efficient. Consolidating these functions will allow significant cost savings as we use economies of scale to bargain for better prices. I also hope to help the campuses plan for the long term growth of the student body within the budget constraints facing the institution. In view of the projections for California's increasing population, an expansion of the campuses to accommodate growing demand for a UC education has got to be a high priority.

Roles and Responsibilities

3. What do you believe is the appropriate role for the University of California Regents in setting educational policy and providing oversight of the UC system? As you make policy decisions and provide oversight, do you believe you get sufficient and timely information to make the best decisions?

The Regents have the responsibility to set policies related to the educational philosophy and objectives of the University, among other tasks. Our role in this is to look at the long term objectives and set appropriate goals in consultation with the President. We are then responsible for seeing to it that the University is on track to reaching those goals. Although not specifically stated, I think the Regents should be working closely with the Legislature and Governor to set policy and goals since the long term health of the University will require a joint effort to be successful.

In the short time I've attended the Regents meetings we have not had much time to dwell on Educational Policy. I noticed this is the committee that deals with transfer policy from

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Community Colleges and CSU among other tasks. Although a lot of work seems to have been done on course articulation to make it easier for CC and CSU transfers, we still have a lot of work to do. There is a large unmet demand from CC and CSU transfers into UC. This is of particular interest to me since it is often the preferred way for students from disadvantaged backgrounds to attend UC. Based on only 3 meetings, it is impossible to say if we are receiving sufficient and timely information to make the best decisions. I would try, however, to have more time on the agenda to work on these issues.

4. Is there a need to strengthen the Regents' oversight capacity? If so, how would you propose strengthening this function? Would the Regents benefit from having its own staff independent of the system's staff?

In a word, yes. As Regents, we have a responsibility to ask the hard questions and help UCOP set priorities. The Office of the President and his staff already report to the Board of Regents, and having a staff outside of the UOP would not be helpful. Instead, independent outside contractors (i.e. auditors) could play a greater role in assisting the Regents in their oversight capacity. The Regents will have to be more proactive when interacting with UCOP to make sure we are given the pertinent information. We must be mindful of our independence and not be too quick to accept all the information given to us without question. We should always be aware of our responsibility to see that the goals are met in a manner consistent with the policies approved by the Regents, Legislature and Governor.

Employee Compensation

The University of California recently was criticized for not fully disclosing compensation packages provided to top management that are well above the amount publicly reported as their base salaries. At the latest Regents meeting, changes were made in the way compensation will be handled.

5. The Regents recently granted UC President Dynes discretion to increase salaries within large salary bands. How does this action improve the accountability of expenditures for salaries?

The establishment of salary bands does not improve the accountability of expenditures for salaries. These salary bands are a tool to make compensation ranges for different functions more clear. Better accountability comes with awareness that full disclosure is important and the conviction of acting within existing policies. It may well be that we should have a new look at how we conduct our compensation processes. This is another area of emphasis for the Audit Committee to examine.

6. Does the University have a standard definition of a compensation package for employees? Is it the same definition for both management and faculty? Would it include

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the base salary and other cash or noncash compensation included in salary packages for upper management?

The University does not have a standard definition of a package. Previous practice was market-driven with benefits and cash compensation used to compete for the best faculty and staff. The recent Regents resolution was the first step to rationalize and standardize compensation. It is by no means the final step, and I recognize we still have a lot of work to do to rationalize total compensation for both administration and faculty.

7. As a public institution, your financial transactions are a matter of public trust. Do you think even after recent changes that there is sufficient transparency of the review and approval process concerning employee compensation packages? Please explain how the recent action of the Regents improved the transparency.

We have recently posted most of the salaries on the UC Website. We are taking steps to ensure all compensation is approved by the Regents according to the policies set by the Legislature and Regents. The pending audit being conducted by an outside accounting firm will help us identify any weaknesses in our current processes. This audit will allow us to take steps to further improve accountability. In his testimony at the Hearing on Compensation on February 8, 2006, President Dynes pledged to review ways in which exceptions to the compensation process are granted. The audit process should review the compensation tools available. Any new compensation agreements should disclose all payments and administrative leave agreements in a clear manner.

8. The UC Regents recently adopted a new policy requiring that they approve all severance agreements worth \$100,000 or more. Does this new policy also require the Regents to approve settlement agreements regarding employment? If not, should approval by Regents of such settlements be mandatory?

It is stated in the Proposed Interim Policy Attachment A of the Regents Special Committee on Compensation on January 19, 2006 that settlement agreements regarding employment is not included for approval by the Regents. As a member of the Compensation Committee, I will ask for a thorough review of ALL forms of compensation, including settlement agreements regarding employment.

Leave Policies

Several departing University of California executives recently were granted extended administrative leaves at their executive salary levels while transitioning back to formerly held faculty positions. In 2003 the Regents voted to change an earlier policy that limited paid administrative leave for executives to three months. The current paid administrative leave policy provides UC officials considerable latitude in approving extended paid administrative leave for top executives. UC Regents approve these leaves in limited cases.

9. Will the newly formed UC Regents Committee on Compensation be reviewing paid administrative leave policies and making recommendations?

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The Compensation Committee has only just been formed and has not met yet as a standing committee. However, I expect paid administrative leave policies will be reviewed, along with all compensation tools. I will work with both the Compensation Committee and the Audit Committee to review the components of Compensation with a view to making them understandable and with clear policies in place.

10. Do you believe changes should be made to the paid administrative leave policy? If so, should such a policy limit the time frame in which an employee can be placed on paid administrative leave, similar to the earlier policy that limited paid administrative leave to three months? Should all paid administrative leave for senior employees require approval by the Regents? If so, should there be a compensation threshold that triggers this requirement?

All non-salary compensation related payments and promises to make such payments should be reported to the Regents. All forms of compensation are quantifiable, including paid administrative leave. I don't think we should restrict the various forms of compensation. However, there are many policies governing paid administrative leave which has led to confusion. I intend to make the simplification of all compensation plans a priority as a member of the Compensation Committee.

Student Fees and Financial Aid

This year the governor's 2006-07 budget proposes to buy out scheduled fee increases for the University of California, California State University, and community college students. The Legislative Analyst's Office counters that maintaining the current fee levels is nothing more than providing untargeted financial aid to all students regardless of financial need and does not serve the needs of the lowest-income students. The Legislative Analyst's Office proposes that state policy makers consider other fee models that include higher fees, less untargeted financial aid, and more targeted financial aid.

11. Do you believe UC student fee and financial aid policies should be revised to address the issues raised by the Legislative Analyst's Office? What do you believe are the challenges in crafting a student fee and financial aid policy that balance the need to keep fees reasonable while providing sufficient financial aid to help low-and moderate-income students?

Arithmetically, the Legislative Analyst is correct in that maintaining the current fee scale does not increase the amount of money going to financial aid. However, the cost of a UC education has always exceeded the fees charged by the university resulting in a State funded subsidy to all students. The issue is always finding a balance between providing adequate financial support for qualified students in need and charging sufficient fees to provide a quality education to all UC students. This is not my area of expertise, so I do not have any specific recommendations on how to structure a fee scale to achieve increased financial aid

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for low and moderate income students. In principal, I would favor looking for a way to do so. There is an increasing divide between the haves and have-nots that needs to be addressed.

12. Does the University Grant Program provide grant aid to all students who are eligible for competitive Cal Grants, but do not receive them because of over-demand for the program? If not, do you believe aid to these students should be provided? What are the barriers to doing so?

There is not enough Cal Grant money to satisfy the demand. I do believe no qualified student who is accepted to any university should be turned away because of financial difficulty. The Development Offices at the campuses have raised a lot of money for undergraduate scholarships. We must work harder on that front as I don't think there will be much more money forthcoming from the State's budget to satisfy this demand either.

Prison Medical Care

Citing "incompetence and outright depravity in the rendering of medical care", a U.S. district court judge last summer ordered that the Department of Corrections' management of the \$1.1 billion-a-year prison medical system be placed in a receivership. Other states facing similar problems, such as Texas, have turned much of the prison system health care over to public universities. The Department of Corrections and Rehabilitation has referred often to expanding UC's involvement in inmate health care.

13. Do you believe the University of California has a role in planning for the delivery of improved health care services in prisons and providing direct medical care to inmates vis-à-vis a formal relationship between the University of California medical facilities and the Department of Corrections? Please explain.

This is not a subject that has been discussed in Regent meetings. It is an interesting idea and is certainly worth considering. In my view, a careful study of the difference in patient needs would have to be conducted, since the medical needs of prison inmates are likely to be quite different from the needs of young adult students. Also, the scale of care required will take a lot of planning. Certainly, the UC medical centers are not prepared for the sheer numbers represented by the prison population. It will definitely have to be viewed as either a revenue-positive or at least revenue-neutral project.

14. What would be the challenges for the university in providing these services?

Again, this is not a topic familiar to me, but I would carefully consider the issues of security and cost. Also, I imagine this would involve an expansion of our medical services which would require additional oversight. None of the current Regents are in the medical field. Perhaps this would be another instance where the use of a third party consultant would be useful.

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Student Academic Preparation and Outreach Programs

The governor's 2006-07 budget proposes to eliminate all state support (\$17.3 million) for University of California student academic preparation and outreach programs.

15. Outreach programs have been devised to increase access to a University of California education among students from disadvantaged backgrounds. Do you believe these programs are effective in achieving this purpose? If not, how would you recommend changing the programs so they are more effective? Is there a better way to increase interest and eligibility among these students?

I have not had the time to delve into the details of this program. I understand there is a study underway to measure the effectiveness of the outreach programs. If the study bears out the success of the program I would be very much in favor of continuing the program. UC is already working to strengthen the ability of California's math and science teachers; though how deeply this project impacts the quality of high school instruction should be the subject of further study. Also, I recently read the Legislative Analysts "Review of the State's Transfer Process". The review clearly states there are gaps in the ability of Community College students to transfer to CSU and UC. More work has to be done to facilitate these transfers, as many students from disadvantaged backgrounds come through the Community College system, and this is another way of affording access to UC.

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1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the integrity of the financial system and for the ability to detect and prevent fraud. The text outlines the various methods used to collect and analyze data, including the use of statistical models and computerized databases. It also discusses the challenges of dealing with incomplete or inconsistent data and the need for rigorous quality control procedures.

2. The second part of the document focuses on the development of new statistical techniques for analyzing complex data sets. It describes the use of advanced mathematical models, such as regression analysis and principal component analysis, to identify patterns and relationships in the data. The text also discusses the importance of validating these models and the need for ongoing research to improve their accuracy and reliability. The author concludes by emphasizing the need for a collaborative effort between statisticians and other professionals to address the challenges of modern data analysis.

3. The third part of the document discusses the application of statistical methods to the study of human behavior. It describes the use of surveys and experiments to collect data on various aspects of human cognition and decision-making. The text also discusses the challenges of interpreting this data and the need for careful statistical analysis to avoid drawing incorrect conclusions. The author concludes by emphasizing the importance of understanding the limitations of statistical methods and the need for a holistic approach to the study of human behavior.

4. The fourth part of the document discusses the use of statistical methods in the field of medicine. It describes the use of clinical trials and epidemiological studies to evaluate the effectiveness of new treatments and to identify risk factors for various diseases. The text also discusses the challenges of dealing with complex data sets in this field and the need for rigorous statistical analysis to ensure the validity of the results. The author concludes by emphasizing the importance of statistical methods in advancing medical research and improving patient care.

5. The fifth part of the document discusses the use of statistical methods in the field of economics. It describes the use of econometric models and time series analysis to study the behavior of the economy and to forecast future trends. The text also discusses the challenges of dealing with large data sets in this field and the need for sophisticated statistical techniques to analyze the data. The author concludes by emphasizing the importance of statistical methods in understanding the complexities of the economic system and in making informed policy decisions.

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APPEARANCESMEMBERS PRESENT

SENATOR DON PERATA, Chair

SENATOR JIM BATTIN, Vice Chair

SENATOR ROY ASHBURN

SENATOR DEBRA BOWEN

SENATOR GILBERT CEDILLO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR BATTIN

CHRIS BURNS, Consultant to SENATOR ASHBURN

EVAN GOLDBERG, Consultant to DEBRA BOWEN

DAN SAVAGE, Consultant to SENATOR CEDILLO

ALSO PRESENT

BRIDGETT LUTHER, Director
Department of Conservation

SENATOR ABEL MALDONADO

STEWART FELDMAN, Secretary-Treasurer
California Association of Resource Conservation Districts

FELICIA MARCUS, Executive Vice President
The Trust for Public Land

DARLA GUENZLER, Ph.D., Executive Director
California Council of Land Trusts

BILL ALLAYAUD
Sierra Club, California

1 LAI LAI Y. BUI, Member
Commission on Peace Officer Standards and Training

2 SENATOR DEBORAH ORTIZ

3 ALICE WONG, Chair
4 Public Safety Liaison Committee
5 CAPITAL (Council of Asian Pacific Islanders for Advocacy And
Leadership)

6 TRANG TO, President
7 Asian Peace Officers Association

8 ALBERT NAJERA, Chief
9 Sacramento Police Department

10 JERRY CAMOUS, President
Sacramento Police Officers Association

11 DAVE HALL, President
12 Northern California Asian Peace Officers Association

13 TOM MARUYAMA, President
14 National Association of Asian American Law Enforcement
Commanders

15 ROMAN MURRIETTA, Detective
16 Sacramento Police Department

17 RONALD E. LOWENBERG, Member
18 Commission on Peace Officer Standards and Training

19 HENRY T. PEREA, Member
20 Commission on Peace Officer Standards and Training

21 CINDY M. GUSTAFSON, Member
Fish and Game Commission

22 SCOTT WETCH
23 California Pipe Trades Council
24 California Sportsmen and Labor Coalition

25 DUNCAN McFETRIDGE
State Association of Electrical Workers
26 Western States Council of Sheetmetal Workers

27 MARK HENNELLY
28 California Waterfowl Association

1 ERIC MILLS, Coordinator
2 Action for Animals

3 VIRGINIA HANDLEY
4 Animal Switchboard
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And Cosmetology: FRANK J. LLOYD; Member of the
Fair Employment and Housing Commission:
BRENDA A. ST.HILAIRE

P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN PERATA: Senator Maldonado, are you waiting?

SENATOR MALDONADO: Yes.

CHAIRMAN PERATA: We have a quorum of four. We are just momentarily waiting for Senator Ortiz. She has bragging rights.

[Thereupon the Committee acted on legislative agenda items.]

CHAIRMAN PERATA: Senator Maldonado, would you like to come forward with your nominee.

SENATOR MALDONADO: Our friend.

CHAIRMAN PERATA: Bridgett Luther.

SENATOR MALDONADO: Mr. Chairman and Members of the Committee, thank you for this opportunity to be here today in this capacity.

It gives me great pleasure to be here today on behalf of Bridgett Luther. I first met Bridgett a few years ago when she was serving as the National Development Director for Republicans for the Environment and Protection.

CHAIRMAN PERATA: Both of them? We're just kidding.

SENATOR MALDONADO: Mr. Chairman, it's been said that they do meet in a phone booth once in a while.

Since that time, I've always known her to be an honorable person of the highest integrity and professional standards.

1 As you have seen from her resume, Bridgett's work
2 experience has revolved around public service and the pursuit of
3 sound environmental policies. I strongly believe that Bridgett
4 has the experience, the drive, the temperament, and the passion
5 for the environment that will serve her well as Director of the
6 Department of Conservation and its mission, Mr. Chair, of
7 balancing the needs of California today with the obligations of
8 tomorrow by fostering the wise use of conservation of energy,
9 land, and mineral resources.

10 It gives me great pleasure, Mr. Chair, to present
11 her. I hope the Committee unanimously moves her forward to the
12 Floor.

13 CHAIRMAN PERATA: Thank you very much, Senator.
14 Welcome.

15 MS. LUTHER: Welcome. Thank you for having me
16 here today.

17 My journey to Sacramento began 25 years ago in my
18 own community, like many of yours --

19 CHAIRMAN PERATA: Traffic congestion; right? You
20 just can't get anywhere. See, Abel? What did I tell you? You
21 just can't drive up these freeways.

22 [Laughter.]

23 MS. LUTHER: I helped start the first recycling
24 program in my county of Mecklenberg back in North Carolina.
25 From there I went to raising money for ballfields because my
26 kids had played on fields that had been available to them for 40
27 years, and all of a sudden it was an apartment complex.

28 After that, The Trust for Public Land came to

1 North Carolina. They wanted to start an office there, and they
2 asked me to head it. And when I left, it was an office with
3 three field offices, a staff of eleven, a budget of \$3 million,
4 and we had raised \$20 million to protect a regional water
5 source, provide parks and greenways throughout two states.

6 As luck would have it, I also met my husband at
7 The Trust for Public Land and his job was in San Francisco. So,
8 three years ago I moved to San Francisco. I felt like I was
9 coming home because my parents had lived in Orange County for 30
10 years, so for 30 years I had been making the cross-country trek
11 with my kids at Christmas and in the summer time, so I knew well
12 the back roads, the trails, and particularly the beaches of
13 California.

14 And I was struck when I moved out here at the
15 really incredible, beautiful spaces of California. And I'm so
16 grateful to be working to help protect those resources for my
17 kids, and your kids, and their kids.

18 Since I've been at the Department of
19 Conservation, I've realized that a lot of what we do reflects
20 the greatness of California and also many of the challenges.
21 Within my department I have the Division of Land Resource
22 Protection, and so we work a lot with the California Farmland
23 Conservancy Program, and those two programs are very near and
24 dear to my heart. I'm very interested in helping protect
25 farmland from the pressures of growth.

26 Our wonderful geology also has many challenges,
27 because those hillsides that we -- from which we have our awe-
28 inspiring views are also places of landslides and fault lines.

1 One of my priorities for my term during Director is to update
2 the seismic hazard mapping and to make sure that we have new
3 earthquake planning scenarios. I've been partnering with the
4 Office of Emergency Services. I believe that the money when we
5 did the earthquake planning scenarios 20 years ago came from
6 FEMA. So, I'm hoping that we'll be able to tap that pot of
7 money again.

8 Since I do have a home still in San Francisco,
9 I'd be very interested in trying to figure out how I'm going to
10 get out of there when the next one hits.

11 Finally, urban mining is part of the Department
12 of Conservation. Some of you know it as recycling.

13 You have the best bottle bill in the country.
14 Last year we were able to recycle 14 billion containers.
15 Unfortunately, 6 billion containers still made it into the
16 landfill.

17 We are proposing AB 3056, which will start to
18 accelerate the pay out. And by that, I hope we will be able to
19 give the people a nickel and a dime early next year. And we
20 know from previous studies of the University of California at
21 Berkeley that it certainly will increase. As we increase CRV,
22 we also increase recycling, and that will put us a big step
23 toward that 80 percent goal.

24 I didn't know where my journey would lead when I
25 came across the United States three years ago. I do believe my
26 passion for the environment, my drive for community service has
27 found a new home at what I call the Department of Everything
28 Interesting.

1 I've enjoyed the last six months as being the
2 Director, and I thank you for this opportunity to speak to you,
3 and I look forward to your questions.

4 CHAIRMAN PERATA: Thank you.

5 Are you a Tarheel fan?

6 MS. LUTHER: I am a Tarheel fan. Taking some
7 bets?

8 [Laughter]

9 CHAIRMAN PERATA: We can't do that here.

10 [Laughter.]

11 MS. LUTHER: Okay.

12 CHAIRMAN PERATA: Turn around and look at the
13 number of law enforcement in the house.

14 [Laughter.]

15 CHAIRMAN PERATA: I'm delighted to meet you. I'm
16 happy that you're living in San Francisco, because earthquakes
17 will be more than a passing interest to you.

18 MS. LUTHER: Yes.

19 CHAIRMAN PERATA: On the bottle bill, there was a
20 decline or decrease in recycling rates. It benchmarked at 82
21 percent, and now it's down to 65.

22 Do you think that's a function of needing to
23 increase the cost, I mean the bounty?

24 MS. LUTHER: I believe that the decrease wasn't
25 because of the CRV. It's because we put a lot more materials.
26 When that happened, we were only recycling the one, two, and
27 three PET bottles, and we just went all the way up to seven.

28 So, just about everything that you drink now is

1 part of the CRV. And so, all of a sudden, we had millions of
2 more containers that were part of our program. There was a lot
3 of explanation that needed to go on with the consumers.

4 I do believe, however, that increasing the CRV
5 will increase the recycling rate.

6 CHAIRMAN PERATA: The other question I have,
7 we've been talking a lot, we might actually do something, about
8 infill housing. It brings to mind one of the reasons that I'm
9 supportive of it, as well as many, is that the more we can
10 recycle land for housing, the less we tear up ag land.

11 And then the Williamson Act cancellations are up,
12 and what's going on in the area of ag preservation within the
13 department?

14 MS. LUTHER: Within the area of ag preservation,
15 we're working hard to strengthen California Farmland Conservancy
16 Program, because that's the permanent protection of farmland.

17 As far as Williamson Act is going, what's
18 happening with Williamson Act is, the towns that are growing are
19 old farm communities. So, as they grow, they're growing on the
20 farmland. So it's -- we can't really stop that.

21 We have been working with communities in trying
22 to do what we call the Williamson Act Exchange. It hasn't --
23 we're trying to streamline that process, and in that process you
24 can actually -- instead of taking the cancellation fee, we would
25 take a permanent conservation easement on another piece of land
26 within the same county. So then you start to get some wins.
27 You're losing some farm, but you're protecting some farm in
28 perpetuity.

1 And you won't believe this. I've had four
2 developers in my office in the last couple of months who are
3 real interested in this.

4 So, I'm very excited about that. I'm interested
5 in streamlining that process, particularly in the valley that
6 you're talking about, Senator.

7 CHAIRMAN PERATA: Thank you.

8 Other questions.

9 SENATOR BOWEN: First, I need to point out that
10 I'm a Cavalier.

11 MS. LUTHER: Uh-oh.

12 [Laughter.]

13 MS. LUTHER: It's going to be a rough basketball
14 season.

15 SENATOR BOWEN: For you, yes.

16 [Laughter.]

17 CHAIRMAN PERATA: Anybody here from Duke?

18 SENATOR BOWEN: That's okay. We can agree on
19 Ohio State, I'm sure.

20 [Laughter.]

21 SENATOR BOWEN: Couple of questions, and they
22 really relate to funding issues.

23 I first thank you for your very detailed answers.
24 It makes our job much easier here.

25 I looked at the amount of money that was in the
26 Mine Fund. I believe the revenues that come in are about
27 \$400,000 a year.

28 The numbers of abandoned mines that I've seen

1 range from 30,000, to your number of 147,000, to I believe that
2 the analyst at our 2000 budget hearings estimated that there
3 were 150,000 abandoned mines.

4 And my question is, what does \$400,000 dollars
5 buy us in terms of mine cleanup? Is it anywhere close to
6 adequate? Does it even deal with the places where there's an
7 acute public safety or public or health issue with an abandoned
8 mine?

9 MS. LUTHER: Right, Senator. There are a lot of
10 abandoned mines, most of them left over from the Gold Rush.

11 I believe the numbers we could all agree on would
12 be 47,000.

13 We've been only cleaning up mines since 2003, so
14 we're a little behind. But I think we're doing a pretty good
15 job of identifying where the most serious hazards are. And
16 that's part of it, is just taking that inventory. Where are the
17 most serious hazards, so that we can start to prioritize, and
18 we're in the process of doing that.

19 It's really interesting. It doesn't take a lot
20 of money to clean up a mine. You can put a back gate in front
21 of a mine for a couple hundred dollars. You can blow foam in
22 there for less than a thousand dollars. So, that \$400,000 that
23 we get goes further than you would think, particularly on the
24 physical hazards.

25 On the toxic hazards, we have partners. I mean,
26 we have actually put together the Abandoned Mines Forum, and
27 we're working with the Water Board and the Toxic Substance
28 Board, and looking with them on how we can creatively use their

1 funds and our funds for the toxics hazards.

2 So, that's just a whole -- yeah, the \$400,000
3 wouldn't be the tip of the iceberg on that kind of problem.

4 SENATOR BOWEN: That's exactly why I was asking.
5 I watched a mine in Colorado on the Eagle River, where a whole
6 town was just abandoned. You could go by this town on the side
7 of the mountain. Gilman it was called. And it was as though
8 people stopped with the toast still in the toaster and abandoned
9 because of lead contamination. And it took 15-20 years, and I
10 don't know how many millions of dollars to clean it up because
11 of the toxics.

12 So, I looked at the \$400,000 and wondered whether
13 we can really do anything.

14 MS. LUTHER: Yeah. We won't be able to tackle
15 toxics much with that.

16 We have some good success stories. The
17 Spenceville Mine and the Gambonini Mine that we all worked on
18 together, the one that's over in Marin.

19 So, I think it's partnerships. Again, we might
20 need a little federal help.

21 SENATOR BOWEN: Second question is also a
22 resource question, and this one has to do with abandoned wells,
23 which is one of the first environmental issues that I worked on.

24 They actually used to drill on the beach in
25 Venice. So, along the coastline, even in urban Los Angeles,
26 there are abandoned oil wells. Some of them are orphaned.
27 There's no one there to pick up the costs.

28 I looked at amount of money that's in that fund,

1 and it's significantly greater than what's in the mine cleanup
2 fund. It's about a million dollars a year, it looks like, with
3 another million dollars just kicked in for a couple of years to
4 get things going.

5 My question is whether there's something that we
6 might do during the active life of those wells so that we have
7 taxpayers on the hook for less in cleanup costs, so we can
8 identify and require advance cleanup payment.

9 I know this has been a big issue in a lot of the
10 coastal communities.

11 MS. LUTHER: It's a huge issue within our
12 department, getting the people that are there, working the
13 mines, to actually clean them up.

14 There are 500 orphan mines; there are -- or wells
15 right now. There are probably 2-3,000 orphan wells that are
16 getting cleaned up by industry themselves.

17 So those -- so we are sort of monitoring idle
18 wells, which ones aren't producing, and then trying to work,
19 okay, are you guys going to be producing or not, because if
20 you're not, then you need to start closing this up. And that
21 has gone steadily down a couple thousand a year as we -- as
22 those are closed up and are no longer productive for the State
23 of California.

24 The cost of cleaning up wells is much higher,
25 closing up those wells appropriately, than the back gate. So, in
26 some cases it can be a half-a-million dollars to get that done
27 correctly.

28 SENATOR BOWEN: Again, the question, is the law

1 sufficient, and is the enforcement sufficient during the time
2 when a well is operating to provide a reserve for clean-up in
3 your view?

4 And if you want to take some more time to think
5 about that issue, I don't want to put you in a position of
6 needing to have an opinion on it if it isn't something you've
7 focused on. I know you've only been there for a few
8 months.

9 MS. LUTHER: Six months.

10 I could give you short answer. If you want a
11 longer -- the short answer is, the industry got together. They
12 decided they wanted on the orphan wells come up with their own
13 fund, so the McCarthy bill, there's a million dollars that's in
14 the Orphan Well Fund.

15 Let's just see. I mean, we just got that money.
16 Let's just kind of see how it works. If it gets to be a
17 problem, then we'll -- I mean, we'll need to come back to the
18 Legislature.

19 SENATOR BOWEN: My focus is on what do you do
20 during the period of time when the well is in operation to
21 reserve for the ultimate clean-up costs, to estimate what
22 they're going to be? Does the department have any involvement
23 or any way to be involved? Is there any ability to take a look
24 at where a well is? You know, if a well is on a stretch of
25 beach, you know you're going to have hydrocarbons seeping into
26 the sand. The clean-up costs are going to be high.

27 It's like everything else we do. When you know
28 you're going to need a new roof, it hurts a lot less if you pay

1 a little bit into a reserve as you go along, than if you get to
2 the end.

3 And in a mine, or a well and a mine, it's
4 particularly important, of course, because when it gets to the
5 end, there's no more revenue source there. That's the
6 definition of the end.

7 MS. LUTHER: Right, right. I'm not sure how the
8 industry is working with our department on that. So, that's
9 something that I will have to get back with you on.

10 SENATOR BOWEN: Okay.

11 Aside from basketball related questions, I have
12 nothing further.

13 CHAIRMAN PERATA: Do you have family here?

14 MS. LUTHER: I do. My husband's here.

15 CHAIRMAN PERATA: Welcome. Sorry we couldn't get
16 you a seat, but maybe if she gets confirmed on the Floor you'll
17 be able to sit down. Welcome.

18 Those here in support come forward. Brevity is
19 really appreciated.

20 You can sit down. Just don't get comfortable.

21 MR. FELDMAN: Good afternoon and thank you for
22 allowing me to speak. My name is Stewart Feldman. I'm the
23 Secretary-Treasurer of the California Association of Resource
24 Conservation Districts. I'm also a director of Placer County
25 Resource Conservation District.

26 And from the questions that I heard from your
27 questions to Ms. Luther, I am very proud that Placer County is
28 taking the lead on conservation planning and some of the

1 activities which the mining, and the other abandoned wells
2 issues, and some of the issues of stewardship, and we're very
3 proud in Placer County to be the interim home of the Sierra
4 Nevada Conservancy in Auburn.

5 I would like to -- I don't know if you all have
6 copies of a letter from our president --

7 CHAIRMAN PERATA: We do.

8 MR. FELDMAN: -- CARCB, the Association, and I
9 just wanted to state personally that I had the honor of sitting
10 with Ms. Luther at the event that we have our annual meeting.
11 She was very kind to come and address our group.

12 And we believe that she is one of us, a resource
13 conservationist, what we call from the roots up.

14 And in our case, what the Resource Conservation
15 Districts do, for those of you not familiar with them, we create
16 partnerships between private landowners, between government,
17 federal and state agencies. And we try to not only educate but
18 actually do good work in erosion control, in air pollution, and
19 in other aspects of farm as well as natural resources.

20 In my area, we're very involved in timber and
21 vegetation management and doing things that we believe that the
22 Department of Conservation, under Ms. Luther's leadership, will
23 be an excellent partner, and continue to support our work in
24 common.

25 Thank you very much.

26 CHAIRMAN PERATA: Thank you for being here.

27 MS. MARCUS: Hello. I'm Felicia Marcus,
28 Executive Vice President and Chief Operating Officer of The

1 Trust for Public Land, which is a national land conservation
2 group dedicated to conserving land for people across a range of
3 landscapes, from inner city to wilderness. We're 450 strong in
4 40 locations around the country.

5 I come here to support Bridgett's confirmation in
6 part because of my experience at The Trust for Public Land, but
7 also in part from my experience being a political appointee,
8 both at the local level when I ran the Public Works Department
9 under Tom Bradley at the last term of his administration, and
10 the seven-and-a-half years I spent as part of the Clinton
11 administration as EPA Region 9 Regional Administrator.

12 And I think that Bridgett combines the qualities
13 that are essential in a political appointee. She has energy,
14 stunning energy, coupled with intelligence and vision, but also
15 with a very practical hands-on sense of how to work with people,
16 how to build bridges, how to get things done, how to focus on
17 results on the ground and reach across the divides that so often
18 keep us from getting our work done.

19 When I came to TPL four years ago, I had not met
20 Bridgett, but she was legendary, one of the most beloved and
21 respected people throughout the organization. So, I was
22 thrilled when I got to meet her finally and found that all of
23 the recommendations were true.

24 Bridgett's told you about what happened in North
25 Carolina. She came in as a program manager to start our
26 Mountain Island Lakes Program, which is one that works to use
27 land conservation to protect water quality, and grew it into a
28 stunning success with support from elected officials and the

1 public on sides of all aisles in a real community spirit.

2 So, I think you couldn't do wrong. I think
3 she'll be a great leader for the department, also a great leader
4 for the people of California, and really good partner in working
5 with legislative leaders to try and get the people's business
6 done.

7 So, thank you for this opportunity.

8 CHAIRMAN PERATA: Thank you for being here.

9 MS. GUENZLER: Good afternoon, Chairman Perata
10 and Members of the Committee. My name is Darla Guenzler, and
11 I'm the Executive Director of the California Council of Land
12 Trusts and appreciate this opportunity to speak on behalf of
13 Bridgett Luther and her appointment as Director.

14 The California Council of Land Trusts is an
15 Association representing more than 150 nonprofit land trusts in
16 California. They are nonpartisan community-based organizations
17 that work on a voluntary basis with landowners to protect
18 important waters and lands in their local communities throughout
19 the state.

20 In California, as you've heard, the California
21 Farmland Conservancy Program is really the key for the permanent
22 protection of working farms and ranches in the state and the
23 operability to permanently preserve them. And it's through the
24 work, my work with CCLT that I've come to know Ms. Luther and
25 readily speak on her behalf today.

26 We found Ms. Luther to be a strong advocate for
27 agricultural conservation. And certainly while her
28 responsibilities will cover many areas within the department and

1 its various divisions, we think that the rate that California is
2 losing its agricultural land warrants and deserves this firm
3 advocate for conserving the high quality farms and ranches we
4 have in California.

5 We began meeting with Ms. Luther soon after she
6 began working in the department. From the beginning, she
7 listened very closely, asked excellent questions, and quickly
8 mastered the subject. She has reached out to talk with a wide
9 variety of other groups on this topic and has gained an
10 understanding of the challenges, and tensions around conserving
11 agricultural lands in light of urbanization pressure,
12 speculative increases in land values, and depressed crop prices
13 while representing and being sensitive to the private property
14 rights of landowners.

15 To conclude, Ms. Luther has shown herself to be a
16 quick learner and a balanced advocate for agricultural
17 conservation. We're very confident in her management of the
18 California Farmland Conservancy Program and in having a strong
19 and valuable partner for advancing the conservation of
20 agricultural lands in California.

21 Thank you.

22 CHAIRMAN PERATA: Thank you.

23 MR. ALLAYAUD: Bill Allayaud for Sierra Club
24 California.

25 We really care about how we mine, recycling, and
26 saving farmland. We think Bridgett Luther does also. We
27 support her confirmation.

28 Thank you.

1 CHAIRMAN PERATA: Thank you.

2 Anything further? Anybody here who wants to try
3 to oppose this? Seeing none, any further questions?

4 SENATOR BATTIN: Move the confirmation.

5 CHAIRMAN PERATA: We have a motion to move the
6 confirmation. Please call the roll.

7 SECRETARY WEBB: Ashburn.

8 SENATOR ASHBURN: Aye.

9 SECRETARY WEBB: Ashburn Aye. Bowen.

10 SENATOR BOWEN: Aye.

11 SECRETARY WEBB: Bowen Aye. Cedillo.

12 SENATOR CEDILLO: Aye.

13 SECRETARY WEBB: Cedillo Aye. Battin.

14 SENATOR BATTIN: Aye.

15 SECRETARY WEBB: Battin Aye. Perata.

16 CHAIRMAN PERATA: Aye.

17 SECRETARY WEBB: Perata Aye. Five to zero.

18 CHAIRMAN PERATA: Congratulations.

19 MS. LUTHER: Thank you.

20 CHAIRMAN PERATA: Senator Ortiz, would you like
21 to come and introduce our next nominee, please.

22 SENATOR ORTIZ: Yes, I would, thank you.

23 Mr. Chair and Members, thank you for allowing me
24 to alter the order of the Committee's work today.

25 As soon as Ms. Bui joins us, hopefully, we'll be
26 able to begin and I'll be brief. It's one of those moments
27 where she'll be back.

28 Let me just say before she gets here, it's really

1 an honor for me to present a constituent of mine, Ms. Lai Lai
2 Bui. And I'm honored to speak in support of her appointment to
3 the Peace Officers Standards and Training Commission.

4 Ms. Bui is the first and only Southeast Asian
5 detective since 1992 residing in my district.

6 We have a unique, interesting challenge in this
7 community: absorbing new communities and building the
8 relationships with our police department and law enforcement
9 with what appears to be uniquely challenging gang and community
10 problems. Much wonderful leadership in this community, but the
11 relationship with some of the younger generation that are
12 unfortunately adopting some of the very challenging patterns of
13 this country, of young people getting involved in crime and
14 gangs, it's very important for us to have leadership like her
15 in our police department.

16 Her leadership and her perserverance is
17 instrumental to this community, as well as, I think, her
18 contributions to the State of California. Upon appointment to
19 the POST, she would be the only Southeast Asian detective in
20 California appointed to the commission.

21 It is certainly my hope that after today's
22 hearing, you will agree that she's incredibly qualified and will
23 strongly contribute to the contributions of this commission.

24 I am more than happy to answer any questions on
25 her behalf until she joins us.

26 She's got ample support here today, but I note
27 there's going to be some opposition, and I respect those
28 concerns. I'm confident she is a candidate that will listen to

1 those concerns and understand that her task on POST is a broader
2 one and that, more importantly, I'm confident she has the
3 capacity to grow and to be a contributing member of POST.

4 MS. BUI: I apologize for --

5 SENATOR ORTIZ: No, you should not apologize. I
6 apologize for having to run.

7 I've said all that I need to say on her behalf,
8 but let me just close with the favorable consideration of this
9 Committee on Ms. Bui's behalf would be greatly appreciated. I
10 think we would all benefit.

11 More importantly, those who have concerns, I
12 think they have a willing listener and one who is up to the task
13 of growing and understanding the important role of a POST
14 position and will broaden the scope of her experience.

15 And more importantly, I have confidence that she
16 has the ability to listen and to grow into that capacity.

17 With that, I would ask favorable consideration of
18 this Committee on her appointment.

19 Thank you.

20 CHAIRMAN PERATA: Thank you, Senator.

21 MS. BUI: Thank you, Senator.

22 CHAIRMAN PERATA: Ms. Bui.

23 MS. BUI: Good afternoon. Just let me take a
24 deep breath. I had to run here.

25 CHAIRMAN PERATA: I know, sorry.

26 MS. BUI: It's okay.

27 Honorable Members of the Senate Rules Committee,
28 I'm very proud to be here with you today as a true

1 representative of the rank and file officer.

2 I've spent my whole career building the
3 knowledge, skill, and experience that have made me a model
4 officer who understands the intricate aspects of the job. I
5 have worked as a patrol officer, detective, and trainer. I am a
6 leader in the Sacramento Police Department. I am an officer
7 that other officers can look to for guidance, direction, and
8 mentorship.

9 My fellow line officers are here with me today
10 because they trust that I will fight to provide them with fair
11 and reasonable policies and guidelines. They know that I am
12 determined to provide them with the most advanced and
13 progressive training possible.

14 I am a leader in the Asian Peace Officers
15 Association as well as the Sacramento Police Officers
16 Association. I have been a member of both associations since
17 the beginning of my career in law enforcement. I am currently
18 on the Board of Directors for both associations. They have been
19 an invaluable resource to me in my efforts as a POST
20 commissioner. I will continue to utilize their wealth of
21 experience and knowledge as we all strive toward the goal of
22 having the front line officer's voice heard and respected at the
23 table.

24 I am also a leader in my community. I have been
25 working closely with the community as a public safety liaison
26 officer for the CAPITAL group, which is an umbrella organization
27 for many other Asian community support groups. I will continue
28 to do this to facilitate communication and relations between the

1 community and law enforcement. This is vital, as law
2 enforcement agencies need to evolve with the ever changing needs
3 of their officers as well as the community.

4 During my time at -- as a POST Commissioner, I
5 have been able to work with the staff at POST in developing an
6 acting sergeants course to provide the line officers with the
7 very basic yet very important supervisory skills.

8 I also addressed the issue of recruitment and
9 retention of law enforcement professionals. This has been a
10 long-standing problem for all law enforcement agencies, and a
11 statewide strategic plan has never been established to help
12 resolve this issue. Therefore, I've been working with POST
13 staff to share and develop some cutting-edge recruitment ideas
14 that will benefit all law enforcement agencies throughout the
15 state.

16 I look forward to continuing my work as a
17 commissioner for POST, to do my part for my fellow students --
18 excuse me -- my fellow officers and for my community.

19 I want to thank you for this opportunity and for
20 your consideration.

21 CHAIRMAN PERATA: Thank you.

22 Members, questions? Senator Cedillo:

23 SENATOR CEDILLO: Just a couple questions on your
24 membership of your union.

25 MS. BUI: Yes, sir.

26 SENATOR CEDILLO: In that capacity, did you part
27 participate in the bargaining committee in the negotiation of
28 the collective bargaining agreements?

1 MS. BUI: No, I have not.

2 SENATOR CEDILLO: What about in the grievance
3 process? Did you participate in representing disciplined
4 employees, whether in a grievance or a civil service hearing?

5 MS. BUI: No, not yet, sir.

6 SENATOR CEDILLO: Okay.

7 CHAIRMAN PERATA: Anyone here that would like to
8 come forward in support of the nominee?

9 MS. WONG: Good afternoon, Senator Perata and
10 Members of the Senate Rules Committee. I'm Alice Wong.

11 As a prosecutor, I can tell you personally I know
12 of the stellar reputation of Commissioner Bui, and I can tell
13 you of the challenges of law enforcement, and the dire need for
14 representation, diversity, and women role models.

15 But I speak to you today as the Chair of the
16 Public Safety Liaison Committee for CAPITAL, Council of Asian
17 Pacific Islanders Together for Advocacy And Leadership. We
18 represent over 95 API organizations here in the Sacramento
19 Valley. And I've worked closely with Detective Bui in that
20 capacity for CAPITAL, and I have seen her leadership on the
21 Asian Peace Officers Association.

22 Joining us today are not only leaders from API
23 community, but cross communities and law enforcement community.
24 I was staggered when I walked in here today and saw the number
25 of people in support. I think it speaks to how wide and how
26 deep is the support for Commissioner Bui.

27 But I think I was more struck by the sense of
28 pride emanating from this room. Pride because this is an

1 exceedingly proud day for the API community, for the POST
2 Commission, and for law enforcement.

3 For the API community because this is the first
4 Asian female commissioner in California. And she is a leader, a
5 trail blazer, a role model.

6 For the POST Commission, this is an exceedingly
7 proud day. The POST Commission is fulfilling their mandate that
8 it shall consider diversity and gender in its appointment.

9 And it's a proud day for law enforcement. Our
10 local Asian Peace Officers Association is the driving force that
11 brought together today Asian peace officers representing
12 statewide and nation-wide API officers. And our Asian Peace
13 Officers Association here locally stands together with the
14 Sacramento Police Officers Association, together, to strengthen
15 law enforcement relations and to best serve the interests of the
16 men and women of the Sacramento Police Department.

17 So, on behalf of CAPITAL, Senators, I want to
18 share with you that we are enormously proud of Commissioner Bui,
19 her leadership, her qualifications, and what she will bring to
20 the POST Commission. And we're exceedingly proud of our Asian
21 Peace Officers Association.

22 Thank you very much.

23 CHAIRMAN PERATA: Thank you.

24 After that, everybody could just, like, do their
25 name.

26 [Laughter.]

27 SENATOR CEDILLO: Mr. Chair, she did say she was
28 a prosecutor.

[Laughter.]

LT. TO: Good afternoon, Mr. Chair and Members of the Senate Rules Committee. My name Lieutenant Trang To with the Sacramento County Sheriff's Department. I'm the President of the Sacramento Asian Peace Officers Association, also known as APOA.

I'm here to testify in support of Detective Lai Lai Bui for her confirmation as POST Commissioner. Detective Bui is a director on APOA.

Since APOA was formed in 1991, our mission has been to work in partnership with all people to enhance the quality of life in the community, and for the betterment of the law enforcement profession. We have developed and strengthened our partnership and outreach with community and our law enforcement partners locally, statewide, in our chapters throughout the United States. We provide law enforcement training and recently held an Asian Gang Conference to share information to other law enforcement agencies.

My board that Detective Bui serves on supports programs and projects for the communities and funds scholarships to encourage participation of public service and law enforcement careers. Recently APOA Sponsored the first Hmong female recruit to the Sheriff's Academy, and she is expecting to graduate on March 23rd, 2006.

Many members of the APOA board, National APOA, National Asian American law enforcement commanders, SPOA, local and Bay Area law enforcement are here in support of POST Commissioner Bui.

1 We are also here to share with you the issues
2 that surface regarding the appointment of POST Commissioner Bui
3 and the interpretation of Penal Code Section 13500 have brought
4 API law enforcement community locally, statewide, and
5 nation-wide together to address issues that impact not only our
6 organization but our entire community.

7 I'm happy to tell you that we stand together
8 today on our accomplishments as a peace officer organization,
9 and to reaffirm our mission to serve our communities.

10 On behalf of the APOA, thank you for the
11 opportunity to address you here today. We are very proud of
12 Detective Bui, and we stand in full support of her confirmation
13 as POST Commissioner.

14 CHAIRMAN PERATA: Thank you.

15 We have a question from Senator Ashburn.

16 SENATOR ASHBURN: Question for the witness.

17 You mentioned the Penal Code Section 13500, which
18 sets out the specifications for core members of the POST
19 Commission that are to be associated with organizations
20 representing police officers and public safety officers.

21 The exact words of that code section are:

22 "These members shall have
23 demonstrated leadership in their
24 local or state peace officers
25 association or union."

26 You are familiar with the nominee's work and her
27 association with the association or union. Does she fulfill the
28 qualifications as specified in the code?

1 LT. TO: I believe she does under that statute,
2 13500, where it states if a candidate has demonstrated her
3 abilities as a leader in a police association or union, then I
4 really believe that we truly will fall under that statute.

5 SENATOR ASHBURN: Do you believe that there's
6 anything in that code section that says that a member, an
7 individual, should have been on the negotiating team, should
8 have been a part of a collective bargaining process, should have
9 been a part of the negotiation or the signature on a collective
10 bargaining agreement?

11 LT. TO: No, sir. Not the way we interpret the
12 statute.

13 SENATOR ASHBURN: Thank you very much.

14 CHAIRMAN PERATA: Thank you, sir.

15 You're dressed up nice.

16 [Laughter.]

17 CHIEF NAJERA: Actually, sir, I was commenting
18 on your suit when you walked in the room. So, thank you very
19 much.

20 CHAIRMAN PERATA: Ever since "Brokeback
21 Mountain," we don't do that.

22 [Laughter.]

23 CHIEF NAJERA: Very good. I still like your
24 tie.

25 SENATOR ASHBURN: We may want to just vote on
26 this.

27 [Laughter.]

28 SENATOR BOWEN: Can we go back to basketball?

1 CHIEF NAJERA: They say you're supposed to start
2 with a joke. I guess that was over the top.

3 My name is Albert Najera. I'm the Chief of
4 Police of the City of Sacramento, and the Chief of Detective Lai
5 Lai Bui.

6 She's got over a decade of experience with the
7 Sacramento Police Department. She has worked -- still works,
8 does work, in a very dangerous assignment. She's an undercover
9 narcotics officer.

10 CHAIRMAN PERATA: Not any more.

11 [Laughter.]

12 CHIEF NAJERA: You'd be surprised what we can do.

13 She provides a very, very unique perspective in
14 law enforcement. I would venture to guess that it would be
15 difficult to find someone with her level of experience, and
16 leadership, and capabilities anywhere in this state as a
17 relatively young Asian female officer with her level of
18 experience. And the leadership capabilities that she has
19 demonstrated not only in the department but in the community are
20 extremely rare if not impossible to find.

21 She is a great resource to me. She is a great
22 resource to this police department, and I would urge you and the
23 Members of this Committee to endorse her appointment to the
24 POST Commission.

25 Thank you.

26 CHAIRMAN PERATA: Thank you, Chief. It's an
27 honor and a pleasure to have you here.

28 CHIEF NAJERA: Thank you, sir.

1 CHAIRMAN PERATA: You know, maybe everybody could
2 just come up and say who they are. After my vast years of
3 experience, I can sort of tell which way things are going to
4 go.

5 I just want for the record to point out that if
6 anybody's coming and opposing that, I want you to look around
7 and see how these people are dressed and what they're wearing.
8 I will not take responsibility beyond that.

9 [Laughter.]

10 MR. CAMOUS: Good afternoon. My name is Jerry
11 Camous. I am the President of the Sacramento Police Officers
12 Association. I'm a 24-year veteran of the Sacramento Police
13 Department, currently holding the rank of sergeant.

14 I've known Lai Lai since she was hired by the
15 department in 1992. She was sworn as a police office in 1995,
16 and at that time became a member of the Sacramento Police
17 Officers Association. She's been an active member of the
18 association, assisting when asked in the cause of the
19 association.

20 Lai Lai was recently appointed and ratified to a
21 vacant seat on the Board of Directors. She will serve as the
22 Board's representative on the department's Training Committee.

23 The Board of Directors of the SPOA endorse Lai
24 Lai as a Commissioner on POST.

25 I've spoken to Lai Lai about her position as a
26 POST Commissioner. She is dedicated to representing the rank
27 and file officer and ensuring that California peace officers are
28 provided with the best training in the nation, and ensuring the

1 high quality of law enforcement profession in California.

2 Thank you.

3 CHAIRMAN PERATA: Thank you, sir.

4 MR. HALL: Senator, I'll keep my comments short.

5 CHAIRMAN PERATA: Thank you.

6 MR. HALL: Senator Perata and Members, my name is
7 Dave Hall. I'm the President of the Northern California Asian
8 Police Officers Association.

9 I am also a street cop, 20 years out on the
10 field. In fact, I got off yesterday at 3:00, came back here.

11 CHAIRMAN PERATA: Which department?

12 MR. HALL: East Bay Parks P.D. Up where you're
13 at, yes, sir.

14 We are here to stand in support of Lai Lai Bui's
15 appointment. The importance of the diversity that she will
16 bring and the perspective that she will bring to this POST is
17 just tremendous, and we are always in favor of such things.

18 In addition, the impact that she's going to have
19 on law enforcement community and the Asian community is just
20 tremendous, and we speak in support of this appointment.

21 Thank you.

22 CHAIRMAN PERATA: Thank you, sir.

23 MR. MARUYAMA: Senator, I am short, so I'll be
24 brief.

25 CHAIRMAN PERATA: How long have you waited for
26 that?

27 [Laughter.]

28 SENATOR ASHBURN: That is a virtue, sir.

1 MR. MARUYAMA: Mr. Chair and honorable Senators,
2 I'm Tom Maruyama.

3 SENATOR BOWEN: Short and brief.

4 MR. MARUYAMA: The last name's Maruyama,
5 M-a-r-u-y-a-m-a.

6 I am the President of the National Association of
7 Asian American Law Enforcement Commanders and also the Executive
8 Board for the National Asian Peace Officers Association.

9 I come before you today in full support of both
10 of our memberships on the appointment of Lai Lai Bui to this
11 honorable Commission.

12 I will tell you from the national level, POST is
13 very important to the rest of the nation. You set the tone; you
14 set the stage for law enforcement throughout this great nation.

15 I would also like to explain that the Sacramento
16 Asian Peace Officers Association is one of sixteen member
17 associations that make up the National Asian Peace Officers
18 Association. So, they are a bonafide member of a national
19 organization.

20 And I would just ask you, as the great Senator
21 said a little while ago, that this is precedent setting. This
22 is something that the API community has vied for for years in
23 representation. As you all know, we are a very committed
24 community. We stand behind our members and those things that
25 they bring before us.

26 So, I would urge you to vote in favor of Ms. Bui,
27 and you have the support of our Association of the National
28 Asian Law -- excuse me, National Association of Law Enforcement

1 Commanders, of which Chief Fred Lau, Chief Heather Fong, Chief
2 Gary Gee, and other notables, are members. So, we stand behind
3 her, and anything that she lacks as far as knowledge, we stand
4 behind her to assist her in sharpening those skills.

5 Thank you very much.

6 CHAIRMAN PERATA: Thank you.

7 MR. MURRIETTA: Thank you, Chairman, Members of
8 the Committee. My name is Detective Roman Murrietta, Sacramento
9 Police Department, Narcotics. I am a co-worker of Lai Lai Bui.

10 Just real briefly, in 2004 as a school project, I
11 wrote an outline for an acting sergeant's manual. Lai Lai
12 became a leader for that cause and has been pursuing that with
13 her job as a POST Commissioner. And I think it's a great asset
14 to have her representing us.

15 Again, as a line officer, I think she's a great
16 leader. She has chaired our causes and again, I would
17 appreciate your support and my support in putting her on the
18 committee.

19 Thank you.

20 CHAIRMAN PERATA: Thank you.

21 Anything further?

22 Just by show of hands, all who are here in
23 support of the nominee? Wonderful.

24 Thank you all for being here. Thank you even
25 more so for not speaking.

26 [Laughter.]

27 CHAIRMAN PERATA: Is there anyone here in
28 opposition?

1 Seeing none, would you like to close? Do you
2 have anybody here that you'd like to introduce, family?

3 MS. BUI: Actually yes.

4 This is a very proud moment for my family. My
5 father, Du Bui, and my mother, Lynn Tran.

6 CHAIRMAN PERATA: Wonderful, welcome.

7 MS. BUI: My old partner's in the back there in
8 uniform, Tom Little.

9 CHAIRMAN PERATA: Congratulations.

10 MS. BUI: As I said earlier, I'm extremely proud
11 to be here, and I appreciate your time and your consideration.
12 And I will do the best that I could to protect all law
13 enforcement officers in California and make sure that they
14 receive the best training possible.

15 CHAIRMAN PERATA: Thank you.

16 Normally we don't require POST Commissioners to
17 appear in person, but there was some early blush of opposition,
18 which seems to have been minimized, I think, by your credibility
19 and those who have been here who spoke so well on your behalf.

20 With that, we will ask for a motion.

21 SENATOR BATTIN: Move.

22 CHAIRMAN PERATA: We have a motion to confirm.
23 Please call the roll.

24 SECRETARY WEBB: Ashburn.

25 SENATOR ASHBURN: Aye.

26 SECRETARY WEBB: Ashburn Aye. Bowen.

27 SENATOR BOWEN: Aye.

28 SECRETARY WEBB: Bowen Aye. Cedillo.

1 SENATOR CEDILLO: I am happy to vote aye for the
2 candidate, but I'd like to make a comment.

3 CHAIRMAN PERATA: Oh sure. I'm sorry.

4 SENATOR CEDILLO: I'm very happy to vote aye. It
5 is a historic moment. It's a salutatory moment for the state.

6 You bring a unique perspective that reflects not
7 only the challenges that California confronts today in law
8 enforcement, but the challenges that will confront us in the
9 future as we have a state that is changing with demographics.
10 You bring a linguistic sensitivity that is really abundantly
11 sorely needed, and I appreciate the professionalism.

12 Obviously, we are impressed by the breadth and
13 depth of your community support.

14 But there have been issues and there was
15 opposition that was raised that is not without merit. The code
16 is clear. We want to enhance diversity in California. Racial,
17 gender, and ethnic diversity should be considered at every
18 position.

19 They must be considered, but they should not be
20 considered in lieu of the other qualifications. And we are
21 sensitive to that. I am sensitive to that.

22 And so, the union has a particular role in this.
23 Provisions were written specifically for them. And the union,
24 while not a block to diversity, actually a champion of diversity
25 and workers' rights, there are certain criteria that they
26 consider important as their criteria for leadership: Are you a
27 delegate; are you a steward; do you participate in bargaining;
28 did you represent workers in the grievance process; what was the

1 nature, the depth and quality of your membership as a member of
2 the union in the rank and file.

3 That is, unfortunately not delineated in the
4 language of the statute. And so, they believe that demonstrated
5 leadership means one thing, and you have obviously another very
6 rich portfolio of demonstrated leadership. They are both
7 valued, and they should not be weighed against each other, but
8 they should be working in concert with each other.

9 As I said, I am very happy to vote for you, to
10 support you, and to continue to be a resource for you and the
11 community.

12 But I also think it's important to understand
13 that the labor movement, the collective bargaining agreement,
14 has a rich history in defense and promoting diversity, and in
15 defending workers' rights. And that is premised on the value
16 and the language inherent in every collective bargaining
17 agreement MOU.

18 And in this instance, which is why we have
19 arbitrators, why we have lawyers, judges, the language is not
20 clear. There was a legitimate desire on behalf of the labor
21 movement to have respect for the MOU, not to have people
22 manipulate it, to go around it, to try to find some other device
23 or mechanism to go around what has been fought for to defend the
24 rank and file law enforcement officer.

25 I know and trust on your representation, your
26 support, that you believe in that and support that, and I'm
27 happy to vote aye for your confirmation.

28 MS. BUI: Thank you, sir.

1 SECRETARY WEBB: Cedillo Aye. Battin.

2 SENATOR BATTIN: Aye.

3 SECRETARY WEBB: Battin Aye. Perata.

4 CHAIRMAN PERATA: Aye.

5 SECRETARY WEBB: Perata Aye. Five to zero.

6 CHAIRMAN PERATA: Congratulations.

7 MS. BUI: Thank you, sir.

8 CHAIRMAN PERATA: Thank you all for coming.

9 We'll give you a moment to exit.

10 I'd like to have Ronald Lowenberg and Henry
11 Perea come forward, please.

12 Normally you wouldn't, as I mentioned, be
13 required to appear if there was no controversy around.

14 Just introduce yourselves, and we'll give you a
15 blessing.

16 MR. LOWENBERG: Thank you, Mr. Chairman and
17 Members of the Committee. My name is Ron Lowenberg. I'm
18 presently the Dean and Director of the Criminal Justice Training
19 Center at Golden West College.

20 I'm approaching 40 years in this business and
21 served on POST Commission during the late '80s and through the
22 '90s. At that point in time I served in the position as a
23 police chief. I'm the retired Police Chief from the City of
24 Huntington Beach.

25 I'm presently appointed with endorsement from the
26 California Police Chiefs Association and a number of other
27 organizations to sit on the POST Commission in the
28 trainer/educator position.

1 And I'm certainly here to answer any questions
2 that the Committee may have regarding my confirmation.

3 And I'll let Henry introduce himself.

4 MR. PEREA: Thank you, Mr. Chair and honorable
5 Senators. It's a pleasure to be here.

6 I'm currently serving my fourth year in my first
7 term as a Fresno City Councilman. I am currently the acting
8 Council President, so it's a little new to be on this side of
9 the dais. It's definitely a different perspective.

10 Just a quick history of who I am, and to give you
11 the two-minute version, born and raised in the Central Valley.
12 Graduate of Fresno State University in political science.
13 Since then, I started working in politics at a very young age.
14 Got my first job working for United States Senator Barbara
15 Boxer. I was then hired by retired Congressman Cal Dooley, and
16 am now currently serving on the City Council.

17 For me, law enforcement has always been one of my
18 -- one of the core issues in my family, in particular because my
19 mother is an investigator with the District Attorney's Office in
20 Fresno County. She is also the President of the California
21 Women's Peace Officers Association. And my father is a former
22 reserve with the Fresno Police Department, served as a reserve
23 for 15 years, and is currently serving as a Fresno County Board
24 of Supervisor. He is my Supervisor.

25 So, it's an honor and a pleasure to be here
26 today. I am just excited to be in front of you, and I would be
27 happy to answer any questions you may have.

28 CHAIRMAN PERATA: Thank you, sir.

1 Any questions?

2 Without objection.

3 Do you have any family here that you'd like to
4 introduce?

5 MR. PEREA: I do. I would like to introduce my
6 fiancée, Yahida Garcia. Thank you for being here.

7 I'd also like to say hello to my mother and
8 father because they are back home right now, listening to
9 today's proceedings.

10 CHAIRMAN PERATA: Terrific. That's good, two
11 people watching today. That's fabulous.

12 [Laughter.]

13 SENATOR ASHBURN: Ratings are up.

14 [Laughter.]

15 SENATOR BATTIN: Move.

16 CHAIRMAN PERATA: We have a motion to approve
17 both the nominees. Call the roll, please.

18 SECRETARY WEBB: Ashburn.

19 SENATOR ASHBURN: Aye.

20 SECRETARY WEBB: Ashburn Aye. Bowen.

21 SENATOR BOWEN: Aye.

22 SECRETARY WEBB: Bowen Aye. Cedillo: Battin.

23 SENATOR BATTIN: Aye.

24 SECRETARY WEBB: Battin Aye. Perata.

25 CHAIRMAN PERATA: Aye.

26 SECRETARY WEBB: Perata Aye. Four to Zero.

27 CHAIRMAN PERATA: We'll hold the roll open.

28 Senator Cedillo just went to vote.

1 Congratulations to both of you.

2 MR. LOWENBERG: Thank you.

3 MR. PEREA: Thank you.

4 CHAIRMAN PERATA: And we have Cindy Gustafson,
5 Member of the Fish and Game Commission. Cindy, would you come
6 on up, and welcome.

7 MS. GUSTAFSON: Thank you. It's quite an honor
8 to be here before you today.

9 CHAIRMAN PERATA: You're in some pretty good
10 company.

11 MS. GUSTAFSON: It was quite a packed room there.
12 I was afraid they were all here for mine.

13 Good afternoon, Chairman Perata and Members of
14 the Senate Rules Committee.

15 It's truly an honor and a privilege to be before
16 you today, and more than a little nerve-wracking, I must tell
17 you.

18 I'd like to thank each you for your attention to
19 these critical appointments, for those confirmed serve as
20 stewards and protectors of California's valuable resources.

21 I appreciate the opportunity to share my
22 background and personal goals for the future of the Commission
23 and the Department of Fish and Game.

24 Over the last 20 years, I've been directly
25 involved in various levels of governmental agencies in and
26 around the Sierra Nevada Mountains and Lake Tahoe. I have also
27 been privileged to serve on federal, state, and local boards,
28 including two elections, two terms, on the Tahoe-Truckee Unified

1 School District, providing educational direction and oversight
2 on a \$34 million budget and \$70 million dollars in capital
3 outlay projects.

4 I was also selected by the U.S. Secretary of
5 Agriculture to serve two terms on the Lake Tahoe Federal
6 Advisory Committee. I was also appointed by the Board of
7 Supervisors of Placer County to serve on the Placer County
8 Transportation Planning Agency.

9 I also served voluntarily on the Board of the
10 Tahoe-Baikal Institute, which is an organization supporting
11 environmental education across international boundaries.

12 I've provided to you, to your staff, my resume so
13 you may reference my other memberships, appointments, and
14 experiences.

15 These opportunities have given me extensive
16 knowledge of public policy development and implementation, which
17 I look forward to contributing to the Fish and Game Commission
18 and to their mission to ensure the long-term sustainability of
19 fish and wildlife resources within California. This mission is
20 clearly a significant challenge in light of escalating impacts
21 from California's growing population and the mounting demand for
22 resource protection, which is currently inadequately funded by
23 decreasing revenue sources.

24 I believe that the Commission must establish
25 comprehensive, proactive policies and regulations ensuring that
26 high priority be given to scientific assessment of fish and
27 wildlife. It is critical that this data be collected
28 frequently, reliably, and then swiftly analyzed to establish

1 current conditions as well as various impacts of external
2 pressures to allow for responsive management.

3 More importantly, this monitoring, management,
4 and protection of our fish and wildlife must be adequately and
5 reliably funded. This can only be done by reaching beyond the
6 traditional financial support of waning hunting and fishing
7 permit dollars. Rather, the Commission must continue to develop
8 partnerships with a wide variety of private organizations,
9 interest groups, and local management agencies. These
10 collaborative partnerships bring additional resources, material
11 support, and often voluntary compliance with governmental
12 efforts.

13 Examples of successful joint ventures include:
14 partnerships with the California Inland Fisheries Foundation
15 providing funding to support fisheries monitoring and
16 evaluation; annual cooperative projects with the California
17 Waterfowl Association to expand duck banding and data analysis
18 efforts; and with the Resources Legacy Fund Foundation providing
19 funds to enhance public participation and provide additional
20 scientific research necessary to implement the Marine Life
21 Protection Act Initiative.

22 Finally, as a Commissioner I would like to
23 continue to ensure public involvement and transparency in policy
24 deliberations and decision-making processes. The Commission
25 should continue to support processes such as the MLPA Blue
26 Ribbon Task Force and outreach such as the Abalone Recovery
27 Management Plan. These efforts have resulted in meaningful and
28 substantive public input and recommendations, and I encourage

1 the Commission's continued support of these processes.

2 In closing, I appreciate and am very appreciative
3 and honored to be here today and to have the opportunity to
4 serve the people of California in such a noble charge as the
5 protection of our treasured natural resources.

6 Thank you, and if you have any questions for me,
7 I'd be happy to try to answer them.

8 CHAIRMAN PERATA: Do you have any family here
9 that you'd like to introduce?

10 MS. GUSTAFSON: I do. My boyfriend is back
11 there, Wally Auerbach, and my son, a senior in high school, Eric
12 Gustafson.

13 CHAIRMAN PERATA: Nice to see you both.

14 MS. GUSTAFSON: He is a basketball player. He
15 plays for the North Tahoe Lakers. I'm sure he would love to
16 play for you.

17 CHAIRMAN PERATA: Shouldn't you be home
18 practicing?

19 SENATOR BOWEN: Has he applied to college yet?

20 MS. GUSTAFSON: Yes, he has. We're waiting on
21 some of the acceptances. He's been accepted to a number of the
22 state universities.

23 CHAIRMAN PERATA: Congratulations.

24 Any questions?

25 SENATOR ASHBURN: I just have one comment, and
26 that is an observation based on personal experience in the sort
27 of unique relationship between the Department of Fish and Game
28 and Fish and Game Commission.

1 And there are times where the Commission and the
2 Department do not see eye-to-eye. And I think that's a very
3 healthy thing.

4 So, I would encourage you, as a Fish and Game
5 Commission Member, to exercise your independent judgment. And
6 on those matters where you do feel that, based on whatever
7 reason, that your point of view may differ from that of the
8 professional staff, that you exercise your independent judgment,
9 and never to shy away from doing so.

10 MS. GUSTAFSON: I appreciate that insight. As
11 you may be aware, we've having some strategic meetings
12 discussing those issues.

13 I understand that role is critical. That is why
14 there is a Commission overseeing the Department.

15 SENATOR ASHBURN: Good. Thank you.

16 SENATOR BOWEN: Question.

17 Speaking of abalone, as someone who represents a
18 coastal district, I have a number of divers. So, we've had some
19 communication about the issue of the abalone fishery.

20 And the conflict that Senator Ashburn refers to
21 between the scientific reporting on the question of the
22 viability of the abalone fisheries, and reopening or not, I'd
23 just like to have your take on what happened in December, and
24 when it's appropriate for the Commission to take a different
25 position than what the scientific community supports?

26 This is keeping in mind that the most recent
27 Executive Director of the Fish and Game Commission, when he
28 left, said that the Commission has no effective control over its

1 Department. So, we have some real questions about whether
2 that's the best mechanism of governance.

3 So, I'm asking you both the specific question
4 about the abalone fisheries, and then more generally, how do you
5 see the respective roles of the Commission and the Department?

6 MS. GUSTAFSON: In December, you asked
7 specifically in December, the Commission, after a long and, as I
8 mentioned in my opening comments, extensive public input phase,
9 we held hearings throughout the state related to the Abalone
10 Recovery Management Plan. I had just joined the Commission and
11 began serving and attended numerous meetings throughout the
12 state on that.

13 We heard from, obviously, the department's
14 scientific assessment. They did continue -- at the Commission's
15 request, did more counts. And we believed that Alternative A,
16 which was one of, obviously, eight alternatives and perhaps
17 more, I can't recall how many alternatives, was an alternative
18 that the Commission felt should be further analyzed. And so by
19 adopting that, and looking at that alternative, we continue now
20 into an EIR process which will document whether those abalone
21 are there or not.

22 So, we did not reopen as, I think, some people
23 were led to believe. We just explained that we thought they
24 should be studied. We should look at what the counts are, and
25 do more of the extensive environmental document that would show
26 us the counts on those.

27 In my remarks, I mentioned how important it is to
28 have good scientific assessment. Quite often, our constituent

1 groups, both on the environmental side as well as on the other
2 side of the coin, both differ with the science that the
3 Department may come up with on various issues. So, as a
4 Commissioner, we have to weigh all of those and ask the
5 questions that are necessary to have in order to make a good
6 decision.

7 Secondarily, I'm sorry.

8 SENATOR BOWEN: Just the --

9 MS. GUSTAFSON: The role between the Commission.

10 SENATOR BOWEN: Yes, and I understand that's
11 under discussion now. Perhaps this is not an appropriate time
12 to have that conversation.

13 This is a place, a focal point, in a lot of
14 policy discussions, whether it be ag land, fisheries,
15 development. You are, as a Commission and the Department is at
16 the fulcrum point of a lot of very controversial decisions.

17 MS. GUSTAFSON: Absolutely. And I think that my
18 background in local government makes it very interesting. I
19 asked a lot of questions as I joined the Commission and wondered
20 why we didn't appoint the director.

21 Why here you have -- I worked for the Board of
22 Supervisors. I worked in local government. I worked for a
23 local public agency. And as the staff to that agency, I'm
24 responsible directly to the Commissioners.

25 In this situation, obviously, we have a
26 Department that is responsible to the Director. The Commission
27 serves aside, deals with the regulation and policy setting.

28 I think we're very clear on those two roles. I

1 think the difference in the discussions that we've been having
2 are related to the budget and the autonomy of the budget.

3 Right now our budget, the line item, is captured
4 within the Department's budget. And in that situation, there's
5 some discussions that we were entering into the pros and cons of
6 splitting off, and whether we could then have independent
7 scientific analysis, if need be, on particular issues.

8 That's the point of the discussions that we were
9 having this morning, and nothing was reached in moving forward
10 with that.

11 SENATOR BOWEN: It's actually not. It's a
12 discussion that is familiar to us in other contexts.

13 We've had the same discussion with the Office of
14 Ratepayer Advocates at the Public Utilities Commission. We've
15 most recently had it with regard to the Regents of the
16 University of California, not in the context of how many abalone
17 there are at the University of California, although that would
18 be an interesting question.

19 SENATOR ASHBURN: How many abalone they're
20 hiding.

21 [Laughter.]

22 SENATOR BOWEN: So, I think it will be your job
23 to make specific, Department and Commission specific,
24 recommendations, and then ours, to look at the overall trend and
25 how many places where we're seeing the same kinds of issues
26 arise, and see if we have any broader wisdom or not.

27 I look forward to hearing the results of the
28 strategy discussions that are ongoing.

1 MS. GUSTAFSON: Thank you.

2 CHAIRMAN PERATA: I'd like to just ask, the
3 Department has been woefully understaffed, enforcement officers,
4 for quite sometime. Have you been discussing that? Is there
5 any direction to be recommended?

6 MS. GUSTAFSON: Well, certainly. We believe, the
7 Department, I think all the Commissioners are unanimous in the
8 need for additional funding for the Department. And we
9 understand in times like this, it's very difficult to ask for
10 more resources.

11 But in looking at the number of wardens that
12 serve this state, and trying to imagine 190 I think we have in
13 the field at this particular point in time, and that's to serve
14 the entire land area of the state, not only that, but the waters
15 of the state. So, you can imagine how spread out those officers
16 are, how underfunded they are, both with equipment and, in
17 comparison, their salaries.

18 CHAIRMAN PERATA: Do you know what the
19 recommended force strength should be for the enforcement?

20 MS. GUSTAFSON: I do not. I know there's people
21 behind me that know that, though.

22 CHAIRMAN PERATA: I'm sure.

23 MS. GUSTAFSON: She's in a uniform, too.

24 CHAIRMAN PERATA: Oh, that's right. Eight
25 hundred. Oh, we're really close; aren't we.

26 MS. GUSTAFSON: Yes.

27 CHAIRMAN PERATA: Okay, on that high note,
28 anybody here who had like to come in support of the nominee?

1 MR. WETCH: Hello, Mr. Chairman and Members,
2 Scott Wetch on behalf of the California State Pipe Trades
3 Council and the California Coalition -- Sportsmen and Labor
4 Coalition, which is a nonprofit made up of about 150 labor
5 leaders in the State of California who spend their time working
6 on resource conservation, habitat preservation, and widening the
7 access to the outdoors for working Californians, in strong
8 support of Commissioner Gustafson.

9 We have watched her at the Commission and
10 appreciate the fairness and balance that she brings.

11 There's no sector of the California workforce
12 where there's a higher percentage, I would submit, of outdoors
13 men and women, hunter men and fisher men and women, than in the
14 construction industry. And it's -- the outdoors are vitally
15 important to our members, so they care about these issues
16 vitally and support the conscientious manner in which
17 Commissioner Gustafson goes about her work.

18 And so, we strongly support her confirmation.

19 Thank you.

20 CHAIRMAN PERATA: Thank you.

21 MR. McFETRIDGE: Mr. Chairman and Members, Duncan
22 McFetridge, representing the State Association of Electrical
23 Workers and the Western States Council of Sheetmetal Workers.

24 Echoing Scott's comments, we are in strong
25 support of Cindy's confirmation.

26 CHAIRMAN PERATA: Thank you.

27 MR. HENNELLY: Hi, Senator Perata and Members of
28 the Committee. Mark Hennelly with the California Waterfowl

1 Association. We're a 20,000 member nonprofit that conserves and
2 enhances California's waterfowl habitat.

3 We also represent the state's duck hunters.

4 And we believe that during her tenure on the
5 Commission, Ms. Gustafson has shown that she has a keen
6 understanding of the often complex wildlife issues that face
7 California.

8 We believe that as she takes on her new role or
9 continues her role on the Commission, that she will continue to
10 push for science-based management of wildlife in California.
11 We'd certainly urge your support.

12 Thank you.

13 CHAIRMAN PERATA: Thank you.

14 MR. MILLS: Senator Perata, Members of the
15 Committee, my name is Eric Mills, Coordinator of Action for
16 Animals.

17 With all due respect, your little joke about the
18 Republicans for the environment, but we need to remember that
19 Teddy Roosevelt, the Father of the Conservation Movement, was a
20 Republican. We need to get back on that road.

21 In the meantime, I've been going to a number of
22 Commission meetings over the years, and I dare say it's really
23 refreshing to have Ms. Gustafson there. She asks good
24 questions. She listens. She questions witnesses, and there's a
25 lot of good discussion, which in the past has not always been
26 the case.

27 I must also say, this has traditionally been a
28 bailiwick. It's been a men's club forever. It's high time that

1 we have qualified women in there, get a woman's point of view.
2 I think it's really critical.

3 So, I'm really happy to support her, and I ask
4 for your aye vote.

5 Thank you.

6 CHAIRMAN PERATA: Thank you.

7 MS. HANDLEY: Hello. Virginia Handley with the
8 Animal Switchboard.

9 And I'd just echo the comments that Eric made.
10 It is very welcoming to see a woman up there, and one that comes
11 so very well qualified and prepared. Who -- I go to a lot of
12 Commission meetings. In fact, I was referred to as a groupie
13 today. I don't what I think about that. I don't go for the
14 entertainment.

15 So, I've seen a lot of Commissioners come and go,
16 and so it's good to see one who is a good administrator, and who
17 comes prepared and participates in the discussions, and cares
18 about the environment and about the wildlife.

19 Thank you.

20 CHAIRMAN PERATA: Thank you, Virginia.

21 Anyone here in opposition? Seeing none.

22 SENATOR BATTIN: Move.

23 CHAIRMAN PERATA: Call the roll.

24 SECRETARY WEBB: Ashburn.

25 SENATOR ASHBURN: Aye.

26 SECRETARY WEBB: Ashburn Aye. Bowen.

27 SENATOR BOWEN: Aye.

28 SECRETARY WEBB: Bowen Aye. Battin.

1 SENATOR BATTIN: Aye.

2 SECRETARY WEBB: Battin Aye. Perata.

3 CHAIRMAN PERATA: Aye.

4 SECRETARY WEBB: Perata Aye. Four to Zero.

5 CHAIRMAN PERATA: Congratulations.

6 MS. GUSTAFSON: Thank you very much.

7 [Thereupon this portion of the
8 Senate Rules Committee hearing
9 was terminated at approximately
10 2:50 P.M.]

11 --ooOoo--

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CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of March, 2006.


EVELYN J. MIZAK
Shorthand Reporter

APPENDIX

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March 1, 2006

**Response to Senate Rules Committee Questions of
Bridgett Luther, Director, Department of Conservation**

Statement of Goals

1. What are your goals and objectives as director of the Department of Conservation? What do you hope to accomplish?

I have three overarching goals for my tenure as the director of the Department of Conservation. While I am committed to the overall mission of the Department, these are my highest priorities. Specifically, I want to:

- Help make California a better, and safer, place to live for all of our residents.
- Help protect family farms.
- Save energy and resources through recycling, by looking for new ways to reach the goal of 80 percent recycling.

Help make California a better, and safer, place to live for all of our residents.

I believe we need to upgrade our Earthquake Planning scenarios and accelerate mapping of seismic hazards. Our earthquake planning scenarios were conducted under partnership with the federal government almost 20 years ago, in some cases. They need to be updated to reflect a modern world that includes cell phones and the Internet. Seismic hazard mapping has been completed for 45 percent of the state and we are working to expand coverage. This important mapping needs to be completed if we are going to help keep our citizens safe.

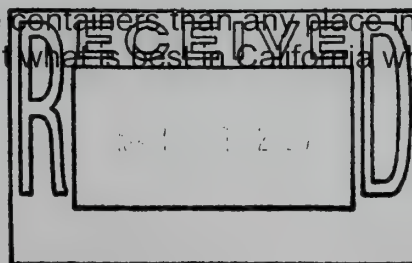
I believe we must develop partnerships for cleaning up abandoned mines and identify long-term funding sources for this work. This is an ongoing challenge in California, which has more than 47,000 abandoned mines, some dating back to the Gold Rush. Some of the mines are life threatening, and we need to address those issues so they are not threats to the public health, safety, or environment. I am committed to finding solutions for the problems surrounding these mines.

Help protect family farms.

We need to foster a spirit of cooperation with communities to help identify those parcels that are of particular importance as family farms and open space. We need to also educate communities about using the tools of the California Land Conservation (Williamson) Act and the California Land Conservancy Program to help make this happen. In addition, we need to increase long-term stakeholder support for the Department's programs. We have to recognize that uses of farmland, open space and even habitat may have to mesh with one another to ensure that we meet multiple resource protection goals.

Save energy and resources through recycling, by looking for new ways to reach the goal of 80 percent recycling.

To date, the State of California recycles more beverage containers than any place in the world, but we need to do even more. We need to look at what is best in California when



it comes to recycling and figure out how to replicate those programs throughout the state. When we propose to spend more money on recycling, we need measurable results. Our objective of an 80 percent recycling rate is clear, but we need a specific plan to reach that target.

During my tenure, I hope to accelerate the seismic mapping of the state of California; reduce the number of abandoned mines through closure and clean-up; to increase opportunities for the permanent protection of family farms and open space, and to reach the 80 percent recycling rate of beverage containers. And, I want to accomplish those goals with a spirit of openness and cooperation with the Legislature, other state agencies, and the citizens we all serve.

Beverage Container Recycling

1. What steps have you taken to work with other agencies in the administration to better coordinate and streamline implementation of the bottle bill and recycling laws?

I have directed Department staff to work with the California Integrated Waste Management Board (CIWMB) on the Container Cooperative Recycling Initiative that began in January 2006. The goal of this Initiative is to expand recycling of plastic containers of all types (including California Refund Value).

I also am supporting the Department's participation in the Multi-Agency Anti-Litter Task Force, a group of private sector companies, non-profit organizations, and state agencies such as the CIWMB, CalTrans, and the California Conservation Corps. We will be seeking ways to maximize existing efforts funded by the Beverage Container Recycling Program and identify new possibilities. For instance, we are exploring how best to coordinate anti-litter work being performed by the local Conservation Corps and funded by the Department's grants with other local government clean-up efforts. I also believe these anti-litter efforts will help resolve plastic debris concerns identified by the Coastal Commission and highlighted by last year's "Plastic Debris; Rivers to Sea" conference, at which I spoke.

Lastly, I believe that local recycling coordinators are an important component in ensuring that Californians have convenient recycling opportunities. I have directed my staff to work with the CIWMB, the League of California Cities, and private sector recycling entities to identify ways to improve communications with recycling coordinators, city planners, and other city leaders. I believe this kind of communication can help all parties understand the benefits of convenient recycling and the economic benefits of recycling to communities.

2. What actions do you support to help promote the increased recycling of plastic and glass beverage containers, whose recycling rates lag behind aluminum?

The Department of Conservation is sponsoring legislation this year to help drive the recycling rate up for ALL materials. We intend to accelerate the redemption pay-out to consumers as a way to "kick-start" increased recycling. This will apply to all containers. We are also working to improve the quality of recycled materials by increasing and expanding the Quality Glass Incentive Payments. These payments are available for any material whose quality is improved prior to delivery to an end-user. Because quality concerns are principally associated with post-consumer glass and plastic, though, I envision that most of these payments will be made for improvements in those material types, which will increase their scrap value and increase their recycling. The Department also proposes to increase the Market Development Grant Program beyond its current sunset of January 1, 2007, and increase the amount available as grants under that program. To date, this program has been successful in improving the collection, quality, and use of post-consumer glass and plastic; our proposed extension and expansion of the program will only improve the recycling rates of those materials.

I also support the Department's current initiatives to increase recycling, including the continued promotions of beverage container collections at bars and restaurants. Currently, this pilot program is being done in a partnership with the City of Pasadena and the Allan Company to service bars and restaurants in the area. The project will test new collection equipment and the economic viability of recycling collections for these establishments in compact urban areas. We hope that the result of this pilot program will be a case study for other bars and restaurants to learn how implementing recycling can save them money and reduce the flow of waste from their businesses.

3. The Beverage Container Recycling Fund consistently runs large surpluses due to the difference between redemption rates and payments into the fund. What is the current balance in the fund? It appears likely that the redemption payment for containers will increase next year. Have you and the Department calculated how this increase will affect the balance in the Fund?

The balance in the California Beverage Container and Recycling Fund (Fund) is \$436 million (as of February 14, 2006), but that figure does not reflect outstanding expenditures or the General Fund loaned amounts. The "cash" balance in the fund for this same date is \$145,937,000. This difference is largely because the state's funds management processes limit the amount of money in the Fund at any one time, and do not reflect the total amount AVAILABLE for expenditure.

The existence of a large reserve in the Fund primarily stems from redemption payment revenues (from the sale of beverage containers) exceeding refund value payments (made to consumers who return their containers for recycling). The increase in the

redemption payment made by consumers and claimed when containers are recycled will certainly affect the Fund balance. What we cannot say at this point, however, is how.

Certainly, we will experience a 20 percent increase in annual revenues as the deposit on each container rises 20 percent. However, with the higher redemption payment, we also expect that recycling rates will rise; this would be consistent with past experience and with the UC Berkeley Study commissioned by the Department after passage of AB 1244 (Chap. 817, Stats 1999). Higher recycling rates increase expenditures from the Fund, drawing down the balance. In addition, the Department has proposed a number of new initiatives that will have both one-time and ongoing costs. These costs will draw from the existing Fund balance. It is not clear what other changes might occur that also impact the Recycling Fund. With these uncertainties, the Department cannot calculate an expected Fund balance for a period that is not scheduled to start for 16 months and would run another 12 months after that.

Mining and Reclamation

1. What steps have you taken to address the public safety and environmental problems associated with abandoned mines?

The Department's first steps in addressing the issue of abandoned mines in California pre-dated my arrival at the Department. In June 2000, the Department published a report on the abandoned mine problem in California, concluding that there likely are 39,000 abandoned mines in the State, many of which pose serious public safety and environmental hazards. Subsequent inventory experience led the Department to increase the estimate to nearly 47,000 abandoned mines.

Since completion of the inventory, the Department has addressed the abandoned mine problem as funding allowed. Recent legislation – SB 649 (Chap. 794, Stats. 2004) – provided a dedicated funding source from gold and silver production, and we are putting that to good use. We expect revenues of about \$400,000/year. Using those funds, we will continue to focus on those physical hazards we can identify that pose immediate threat to public health and safety and those chemical hazards that this funding amount can contain.

I believe the Department is most successful when we secure partnerships with the other state, federal, and local agencies affected by, or having jurisdiction over, abandoned mines. We are working with other agencies to share costs and expertise in performing remediation projects. In most cases, partnering state and federal agencies provide significant matching funds (often more than 50 percent). We are also working with these partners to identify additional funding sources to remediate abandoned mines. Federal Restoration of Abandoned Mine Sites (RAMS) program funding directed to the

Army Corps of Engineers in California would go a long way to helping us address the abandoned mine problem.

2. Has the department consulted with, and coordinated, abandoned mine cleanup with other agencies that have responsibility for water quality and toxic discharges, such as the state and regional Water Boards and the Toxics Department? What are the results of those discussions?

Again, much of the work we have done was initiated prior to my arrival at the Department. However, I support and have encouraged continuation of all of this good work. I have directed the Office of Mine Reclamation to continue to seek improvement of the California Abandoned Mine Lands Forum, formed in 2002 to discuss and resolve technical issues regarding the remediation of chemical and physical hazards at abandoned mine lands. The California Department of Toxic Substances Control, the State Water Resources Control Board, and the Central Valley Regional Water Quality Control Board have been regular participants in the Forum. The Forum is now bidding for facilitation services to make this multi-agency task force an even more effective tool in identifying partnership opportunities and remediation methods. We are also working with the U.S. Army Corps of Engineers to identify potential abandoned mine remediation projects in California that could be remediated with funding through the Army Corps' Restoration of Abandoned Mine Sites Program. Many of these projects would remediate abandoned mine hazards associated with water quality and toxic discharges.

The Department has also led state efforts to clean up toxic mine waste and has coordinated with several regional water boards to develop revegetation strategies and perform related work at abandoned mine sites. For instance, my Department, the CA Department of Fish and Game, the Central Valley Regional Water Quality Control Board, U.C. Davis, and private consultants cleaned up the Spenceville Copper Mine in Nevada County, a 10-acre abandoned mine site. This site included 60,000 cubic yards of mine waste and a half-acre, water-filled pit containing 7.5 million gallons of acid mine drainage that was trickling into two nearby creeks. The Spenceville Mine has become a textbook on successful mine reclamation; it is used as a training site for abandoned mine inventories, and the project was honored with the Governor's Environmental and Economic Leadership Award in December 2002.

We also worked to remediate the Gambonini mercury mine in Marin County, an open pit mercury mine that generated over 300,000 cubic meters of waste until mining ceased in 1972. The Department coordinated with the State Water Resources Control Board and the San Francisco Bay Regional Water Quality Control Board to develop revegetation strategies for this abandoned mine site. The project is considered a case study in state-federal partnerships, successful mine remediation, and effective, low-cost, low-tech mercury reduction using simple revegetation, erosion control, and stream restoration techniques.

These activities demonstrate my Department's commitment to find partners, build relationships, and solve problems. We may not have a huge fund for mine remediation, but we know what we are doing, we know where we will find the mines, and we work well with other entities to remediate abandoned mines.

3. Do you have a comprehensive plan for the safe closure of these mines?

My plan for the safe closure of abandoned mines focuses on immediate threats. We often hear of people falling into abandoned mine shafts or entering adits (a horizontal entrance to a mine) and being overcome by "dead air." When an SUV can fall scores of feet down a shaft just yards from the main track of a road, we have an imminent threat to public health and safety. These are some of our highest priorities. My plan for addressing these sites is to identify where the public is most likely to encounter abandoned mine hazards and use our funding to remediate the sites. Remediation of these types of sites can include filling and grading a shaft or adit. Sometimes, it includes installation of habitat-protecting devices like "bat gates" that allow bats in and out of these man-made caves, but that also prevent people from entering these hazardous openings.

I acknowledge that our focus leans toward remediating physical hazards. We use the gold and silver fee revenues (mentioned above) to protect as many people as possible from immediate physical threats to their health. For sites whose hazards are so significant that half a million dollars might not even conduct the site characterization needed prior to commencing clean-up work, though, I am committed to finding other sources of funding and other partners to remediate these toxic hazards.

4. What is the status of mining and local government compliance with SMARA? What steps do you support to improve compliance and enforcement of the Act? Has the department taken enforcement actions to bring mines and reclamation plans into compliance with the law? If so, please describe these actions? What is the status of mining and local government compliance with SMARA?

Lead agencies (cities or counties) have primary responsibility for ensuring compliance with SMARA. However, when SMARA lead agencies do not do their job, the Department and the State Mining and Geology Board have statutory authority to ensure application of the law. Both the Department and Board are committed to using that authority.

Most counties implement SMARA in a satisfactory manner. Historically, two did not perform well; the State Mining and Geology Board assumed SMARA lead agency authority in El Dorado and Yuba counties due to their lack of SMARA enforcement. There are twelve local jurisdictions that have relinquished SMARA lead agency standing to the State Mining and Geology Board, largely because they have very few mines in their jurisdictions and could not sustain a SMARA program.

We continue to see improvements in the number of active mines that have approved reclamation plans and financial assurances in place. We attribute this to a strong enforcement policy and increased awareness by local planners as the law and its application mature. Probably the best overall indicator of mine compliance is the number of mines on the AB 3098 List. To qualify for AB 3098 List eligibility, an operator must have an approved reclamation plan, financial assurances that meet state standards, and annual inspections by the local lead agency. Presently, about 81 percent of all mining operations are on the AB 3098 List.

The California Supreme Court recently upheld the Department's standing to enforce SMARA. Last year, the Court ruled that the Department has standing to seek to enjoin a mine operator from mining until the local lead agency approves a reclamation plan and financial assurance that meets the state's minimum standards. The Court also agreed that the Department has the authority to direct a local lead agency to reconsider prior approvals and only approve plans and assurances that meet the state's minimum standards. This was a huge validation of the Department's position as a SMARA enforcement back-up to the local control built into the mine reclamation law.

In addition to ensuring local consistency with statewide minimum reclamation standards, the Department also conducts training workshops for lead agencies. The Department has observed that planning staff often rotate assignments or even leave one office for another. These training courses are a good way for the Department to avoid enforcement trouble later with education on proper SMARA administration. In the coming year, the Department's Office of Mine Reclamation will hold seven, two-day workshops around the state.

When assisting the lead agency staff and the mine operator does not result in mine operator compliance, the Department takes enforcement action. While we now have standing to enjoin an operator from mining prior to initiating mining, sometimes mining has already begun and the violation is of the terms of a reclamation plan that's already in place or is a violation related to the lack of a reclamation plan.

One example of actions we have taken to bring operators into compliance with the law relates to a mining operation in Placer County. This mining operation was operating without an approved reclamation plan or an approved financial assurance. The Department sent a 15-day notice to Placer County, requiring it to take appropriate enforcement actions under SMARA to bring the mining operation into compliance. The Department also sent the operator a Notice of Violation, followed by a Notice and Order to Comply, requiring the operator to obtain an approved reclamation plan and financial assurance. This action was later upheld at a hearing before the State Mining and Geology Board (SMGB).

When the operator did not comply with the Department's notices, the Department issued an order to the operator imposing administrative penalties. Upon appeal by the operator, the SMGB upheld the Department's order and imposed an immediate penalty

of \$5,000, with further penalties contingent upon compliance with SMARA within a specified timeframe. The operator is now nearing full compliance with SMARA. A reclamation plan and financial assurance have been submitted to the lead agency for review and approval. The Department has reviewed these and final approval by the lead agency is now pending. The final amount of the administrative penalty will be determined by the SMGB.

Farmland Conservation / Williamson Act

1. Do you believe farmland and open space needs increased protection? How much of a priority will you place on preserving working farm and ranch lands?

Given the population growth that California is expected to absorb over the next few years, our program must focus on how we protect the state's working farm and ranch lands from development pressures. California is home to some of the most productive farmland in the world, capable of producing three crops a year in some places. We cannot stop growth in California, so we must preserve irreplaceable agricultural soils and lands for the future. My background in land conservation makes agricultural and open space protection one of my highest priorities.

The California Farmland Conservancy Program (CFCP), which provides funding for permanent agricultural easements, is the only permanent method of steering urban growth away from our best agricultural lands. When we think of prioritizing for resource protection, we must consider what role the CFCP can play in protecting land with irreplaceable agricultural and other resource values.

The Williamson Act, and its longer-term sibling, the Farmland Security Zone (FSZ) program, provide termed protection for agricultural lands and help ensure reasonable planning. By supporting the Williamson Act and FSZ programs, we help ensure protection of working farm and ranch lands.

2. Williamson Act cancellations are up. To what do you attribute this and what should be done about it? Do we need to provide additional incentives, or perhaps greater penalties, to protect prime agriculture areas?

Williamson Act cancellations do appear to be trending up based on recently collected data for 2004 and 2005. Cancellation acres for these two years (3,951 acres) were significantly higher than the previous four years 2000 to 2003 (1,862 acres). This compares to nonrenewal (the preferred method of exiting a contract) in 2004 and 2005, when 148,000 acres were nonrenewed. Thus, while cancellation numbers were up, they represented less than one percent of lands coming out of contract. It is also important to note that in spite of these cancellation and nonrenewal figures, overall Williamson Act enrollment has averaged about 16 million acres for the last decade; this indicates that even as land is coming out of contract, other land is coming into contract.

The increase in cancellations is consistent with the increase in housing prices and property values in recent years, as well as expanding city growth. The pressure of increased market value of farmland and cities desiring to expand growth boundaries may be contributing factors. Another significant factor in the cancellation increase is the additional oversight by Department staff of county implementation of the Williamson Act. Increased oversight has prompted a number of landowners to cancel their contracts, as the activity they were proposing was found not to be compatible or legal. Also, AB 1492 (Laird; Chap. 694, Stats. 2003) enhanced penalties for breach of contract, prompting a number of cancellations. A very positive result of that legislation is that landowners with incompatible uses, or plans for such uses, are now looking to remove their property from contract. There should be no tax subsidy for incompatible uses.

The Administration has proposed increased staffing for Williamson Act enforcement in the Governor's pending budget. These staff will allow us to more effectively review local enforcement of the Williamson Act, better identify lands that should not be receiving tax breaks, and assist local governments in ensuring that only agricultural and qualifying open space uses are placed on Williamson Act land. These additional staff may discover that Williamson Act noncompliance is systematic; that daily decisions are being made to violate the Act and to accept the consequences later. If this is the case, higher penalties posing more deterrence may be warranted. But these enforcement staff may also find noncompliance that has occurred a little at a time over a long period and can quickly be corrected by renewed education and local commitment to Williamson Act enforcement. In that event, we would conclude that more education, rather than higher fees, may be the appropriate response.

3. The Farmland Mapping and Monitoring Program in your department recently did a pilot study of the extent of large lot rural "ranchette" development in four Central Valley counties (Stanislaus, Merced, Madera and Fresno). This was the first time that ranchettes had been comprehensively documented anywhere in the state. The study revealed that ranchettes occupy one-third as much land as all the rest of the development in these counties combined, implying that the FMMP up to this point has missed one-fourth of all developed land in the Valley, if not the state as a whole. Does your department have plans and the resources to expand this study, and if not, can you tell us what would be needed to survey all the significant agricultural counties in the state?

The Department's Rural Land Mapping pilot study did find that Rural Residential uses occupy an additional one-third of the land that traditional urban uses claim in these major agricultural counties. Under the USDA criteria that are the basis of the Important Farmland Maps, in the past they had been placed in a miscellaneous category called "Other Land." In that respect, they were not missed as a conversion from agriculture, but what they were converted to was not as detailed a description. The pilot project in those four counties involved subdividing Other Land into four additional categories,

including Rural Residential, Vacant or Disturbed Land, Nonagricultural Vegetation, and Confined Animal Agriculture. Rural residential units range from 1.5 to 10 acres in size.

The Department may expand the pilot project to other counties to get a sense of whether the results in the initial four counties are representative of the rest of the state. If we were to explore other counties, this would either have to occur as a redirection (as with the original pilot project) or with additional, as-yet-unidentified resources. We will not know if conducting this kind of detailed analysis of "Other Land" (into the four sub-classifications -- Rural Residential, Vacant or Disturbed Land, Nonagricultural Vegetation, and Confined Animal Agriculture) is appropriate for all of the FMMP-surveyed counties as an ongoing activity until we sample other counties.

Division of Oil, Gas, and Geothermal Resources (DOGGR)

1. Are most gas and oil wells in the State in compliance with the law? If not, what actions is the Department taking to ensure their compliance? What steps is the Department taking to address well abandonment?

Most of California's 90,000 oil and gas wells are in compliance with the law. For the few wells that are out of compliance, the Department issues civil penalties (fines) or formal orders. In 2005, the Department issued 26 civil penalties. To date, in 2006, the Department has issued seven civil penalties. In 2005, the Department issued 10 formal orders to operators to perform work on wells. This work could include pressure testing, blowout prevention equipment testing, well site clean-up, or even plugging of the well.

The Department now spends \$1 million annually plugging orphan wells. "Orphan well" is the term used to describe a well that the operator leaves without properly plugging. Ironically, "abandonment" in oil field terminology is part of the phrase "plug and abandon," a good thing to do with a well at the end of its productive life. This program has been in operation since 1977, where over 1,000 orphan wells have been plugged at a cost of just over \$15 million. The revenue to plug these wells comes from an assessment on the oil and gas produced in the State, which is deposited into the Oil, Gas, and Geothermal Administrative Fund (OGGA), a special fund.

In 2005, legislation was passed creating the Acute Orphan Well Account within the Oil, Gas, and Geothermal Administrative Fund. This new account is funded at \$1 million annually for two years, in addition to the regular \$1 million mentioned above. The purpose of this additional source of funds is to secure orphan wells that pose an immediate risk to public safety or the environment by either their immediate leaking or rapid deterioration.

In addition to spending money to contract for orphan well plugging, the Department also encourages operators to manage their idle wells properly by returning the wells to production or by plugging them themselves. Requirements outlined in statute and

policy, include periodic well testing for mechanical integrity; the filing of fees, bonds, and escrow accounts; and the development of management plans. If wells are determined to be deserted pursuant to PRC Section 3237, the Department may order the operator to plug the wells.

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August 8, 2005

Senator Don Perata
Room 420, State Capitol
Sacramento, CA 95814

Dear Senator Perata,

It has been a great honor for me to be considered for the Commission on Peace Officer Standards and Training (P.O.S.T.). During the last couple of months I have served on the Commission, I am proud to be a part of an entity that strives to provide all California peace officers with the best training in the country.

I have over ten years of law enforcement experience. Everyday, I work toward improving my skills and expanding my capabilities to become a more effective police officer. As a part-time recruiter for the Sacramento Police Department, I make sure to keep my fingers on the pulse of the community. I feel that it is my duty to be aware of the ever-changing needs of peace officers and the communities we serve.

At this time, I am working toward continually educating myself. My short-term goal is to better familiarize myself with P.O.S.T.'s goals, value system, and strategic plan so that I have a better understanding of how P.O.S.T. will influence peace officers throughout the state. It is also my goal to further develop open communication with peace officers to maintain a practical view of what law enforcement officers need.

The mission of the Sacramento Police Department is to work in partnership with the Community to protect life and property; solve neighborhood problems, and enhance the quality of life in our City.

I have listed the following three long-term goals I would like to see the Commission give attention to:

Test Battery for Use of Force

In law enforcement training academies, we have standards that we set to ensure that all recruits perform to a certain level. All recruits are required to pass tests such as a physical fitness test before they are allowed to graduate. At this point, there is no test battery for the use of force. There are no objective standards that are set forth to gauge if a recruit is using the appropriate amount of force for specified scenarios. Each academy is allowed to set its own standards and that may involve each having different practices and/or gender inequities. There needs to be consistency and one standard that all academies adhere to since this involves physical force that will be used against another person.

Acting Sergeant Course

In this day and age, liability, or whom the responsibility falls upon, has become a major impact on how we make decisions. When a law enforcement officer chooses to promote, we make sure to further train that person to make the best decision. However, when the supervisory responsibility is passed onto an Acting Sergeant/supervisor, we often fail to ensure that the person has been fairly equipped with the basic knowledge needed, i.e., Department specific general orders on vehicle pursuits and use of force, recognizing when another officer needs peer support, and handling of citizen/officer complaints. I feel that if a front line officer either volunteers or is ordered to take on this task and assume liability, we should properly arm them with the skills to do the job right.

Diversification Project

This topic is near and dear to my heart since I am an immigrant who has had to struggle through cultural and gender obstacles to become a good police officer. Our country is the melting pot of the world, and California is at its core. We have fought for years to bring diversity to our pool of law enforcement officers so that we could better connect with the communities we work for. I mentioned earlier that I am a part-time recruiter for my Department. I have seen many people from all cultural backgrounds who want to become peace officers. The want and will of these people are there. Some of the problems lie in their inability to pass the entry-level test and our inability to train and retain them.

We must work to find what all of the problems are. Are there communication or cultural differences that can be alleviated by having different training schedules or incorporating assistance from community colleges? I do not think that we should hold their hands through the process, however if we are reaching out to the community to provide us with good candidates we should do what is possible and practical to help them become effective peace officers. Continual failure of

such candidates provided by the community could begin a feeling of mistrust in law enforcement. I think that we can bridge the cultural gap if we could put some research into finding what these people need to succeed.

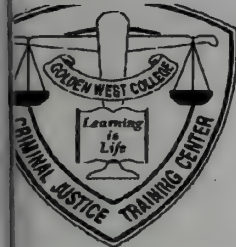
I hope that this letter has given you a glimpse of what I am capable and willing to offer to this Commission. I am dedicated to being the voice of the front line officer, since I am one myself. We all have a common goal of wanting to provide all California peace officers with the most advanced training possible, and I want to be an integral part of this process.

Thank you for your consideration. Please contact me if you have any further questions.

Sincerely,

Detective Lai Lai Bui





Criminal Justice Training Center

Where Character Counts!

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Ron Lowenberg,
Dean/Director

August 4, 2005

Senator Don Perata
Chairman
Senate Rules Committee
State Capitol, Room 420
Sacramento CA 95814

Dear Senator Perata:

Thank you for taking the time to communicate with me regarding my scheduled hearing on my pending confirmation as a member of the Commission on Peace Officer Standards and Training. As a former appointee and chairperson of the P.O.S.T. Commission, I sincerely believe I understand the importance of serving on this very important Commission.

My short and long-term goals for the Commission are guided by the P.O.S.T. Strategic Plan entitled *Making a Bold Adjustment*. This Plan is very comprehensive identifying many goals and objectives that are critical to advancing the vision, mission, and values of the Commission. Specific to my goals I would identify the following as the most important; (1) enhance selection and training standards with an emphasis on recruitment and retention of quality candidates, (2) maximize training delivery strategies by making the best use of available technologies, (3) emphasis POST's role as a service provider to local law enforcement organizations and educational institutions that provide public safety training, and (4) re-enforce strategies and practices that make the best use of the resources of the Peace Officers Training Fund. As our society becomes increasingly more complicated, governments ability to deliver quality police services is becoming increasingly more difficult. As one Commissioner, my responsibility is to embrace the vision statement of P.O.S.T, which states, "To be a leading organization in establishing professional standard, assuring top-quality training, and providing effective services to develop and support the world's finest peace officers and law enforcement organizations".

As a retired police chief, former P.O.S.T. Commissioner, trainer and now an educational administrator I believe I possess a unique combination of experiences that would continue to serve me well on the Commission.

Sincerely,

Ronald E. Lowenberg
Dean/Director
Criminal Justice Training Center
Golden West College
15744 Golden West Street
Huntington Beach CA 92647-2748

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To-SENATE RULES COMMITTEE Page 002

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Boards & Commissions

California League of Cities,
Latino Caucus Board of
Directors

Convention & Visitor's
Bureau Board

Council of Governments

Trauma Intervention
Programs of Fresno

California Peace Officer
Standards and
Training (POST)

August 2, 2005

The Honorable Don Perata
Chairman
Senate Rules Committee
State Capitol, Rm 420
Sacramento, Ca. 95814-4900

Dear Chairman Perata:

I would like to thank you for taking the time to review my confirmation to the Commission on Peace Officer Standards and Training (POST). With your support, I look forward to serving the people of California.

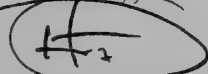
As a new commissioner I will provide a statewide voice as well as a Central Valley perspective on law enforcement issues. I believe I have an opportunity to bring new ideas to the commission and build upon the success of previous commissions. To accomplish that will mean raising the bar on POST selection and training standards, improving quality and access of training and enhancing POST services.

To obtain these goals, I will immediately reach out to law enforcement officials across the state to become familiar with the needs of each agency. I will look to California's law enforcement community for information on how the commission can be more accessible and responsive to their needs. Furthermore, I will work aggressively to ensure that all agencies are receiving adequate training. I will be a strong advocate for delivering much needed training to smaller law enforcement agencies. Many of California's smaller agencies have more difficulty accessing the training they need in their region. Lastly, it is my goal to work with the Governor's office, California legislature, law enforcement agencies, and POST staff to expand our development workshops, telecourses, compliance audits, and specialty courses to make certain every rank is properly trained.

As you know, properly trained law enforcement agencies are the key to an improved quality of life for all Californians. POST plays a vital role in making that happen.

Again, I would like to thank you for the consideration of my appointment to POST and to serve the State of California. If you need additional information, I can be reached at (559)621-8000.

Sincerely,



Henry T Perea
Councilmember, District 7

CINDY GUSTAFSON

P.O. Box 6569

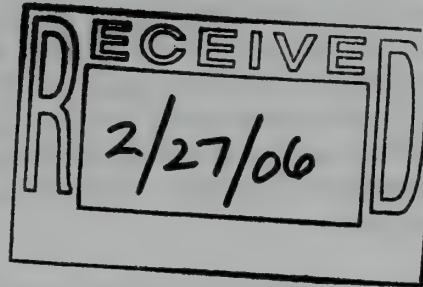
Tahoe City, CA 96145

530/583-3796 ext. 19 work 530/448-1069 cell

cindygustafson@sbcglobal.net

February 24, 2006

Senator Don Perata
Chairman, Senate Rules Committee
State Capitol, Room 420
Sacramento California
95814-4151



Dear Senator Perata:

I am sincerely honored to be considered for confirmation to the California Fish and Game Commission. I appreciate the opportunity to share with you and the Senate Rules Committee Members, my goals as a member of the Commission.

As background, over the last twenty years I have been directly involved with various levels of governmental agencies in and around the Sierra Nevada Mountains and the Lake Tahoe Basin. I have been privileged to serve on Federal, State, regional, and local boards. These opportunities have given me extensive experience in public policy development and implementation. It is from this frame of reference that I suggest goals for the Fish and Game Commission.

I strongly support the Commission's Mission statement – "to ensure the long-term sustainability of fish and wildlife resources within California." This goal is clearly a significant challenge in light of the increasing impacts from California's growing population and the resulting effects on our natural environment. The Commission must establish comprehensive, proactive policies and regulations by which the Department of Fish and Game can enforce and monitor the activities that impact these natural resources.

However, essential to meeting this long-term goal, the Commission must ensure that high priority be given to ongoing scientific evaluation and assessment of fish and wildlife resources. The foundation of credible and effective public policy development is adequate, appropriate scientific assessment. In this case, data collection must be of sufficient scope, duration and consistency in order to establish the sustainability of a vast array of fish and wildlife resources. Assessment must include the study of existing conditions, conditions over time, as well as the impacts and effects resulting from policy implementation. Current Commissioners must also encourage and support data collection beyond currently foreseeable issues to ensure that future generations have the knowledge base by which to continue establishing sound, reasoned policy.

In an era of explosive growth, public education and information is key to the long-term accomplishment of sustaining our natural resources. Director Ryan Broddrick established the office of Education and Outreach in order to raise the awareness of the public and enlist their support. It is

Senator Perata
February 24, 2006
Page 2

important for the Commission to additionally provide their support to further these efforts as ensuring the sustainability of California's fish and wildlife, can and should be a goal shared by all Californians.

While the above are critical to the long-term goal of sustaining California's fish and wildlife resources, the Commission must also focus on the short-term issues related to the annual operations of the Department and the Commission. In light of the current State budgetary constraints, the Commission must reach beyond the traditional State sources to garner additional financial assistance. It is essential that the Commission continue to develop partnerships with a wide-variety of public organizations, specific interest groups, federal, State and local management agencies and individual landowners. Collaborative partnerships bring additional resources, material support, and often, voluntary compliance with governmental efforts.


The Commission, as representatives of the public, should be more involved in supporting the development of the Department's annual budget. It is my goal to re-establish a Commission Budget Subcommittee and work with the Department to develop a budget process that allows for additional Commission and public input. We must be vigilant that the Department's financial resources are used in the most efficient and effective manner.

A continuing goal of the Commission must be to ensure that the Department is flexible and responsive to meet the needs of the fish and wildlife resources as well as the public. In the case of the Department of Fish and Game, if this were to occur, non-responsiveness could result in delays to resource protection, economic consequences, and a reduction in the credibility of the overall organization. The Commission must ensure that the policies and regulations of the Commission, and the Department's implementation of those, are sufficiently flexible to meet the needs of the fish and wildlife resources as well as the public.

Finally, the Commission must continue to ensure public involvement and transparency in our on-going deliberations. I strongly support public participation and representation in the decision-making process. The Commission should continue to encourage processes such as the Marine Life Protection Act Blue Ribbon Task Force and the Abalone Recovery Management Plan public hearings. These efforts have resulted in significant public input and substantive recommendations, which the Commission supported. To successfully sustain our fish and wildlife resources, we must increase meaningful public and stakeholder input into all of our processes.

I am appreciative and honored by the opportunity to serve the people of California as a member of the Fish and Game Commission. I look forward to meeting with you or your staff and the other members of the Senate Rules Committee individually prior to the hearing on March 8, 2006. Please let me know if I can provide any additional information prior to the hearing.

Sincerely,


Cindy Gustafson

CALIFORNIA LEGISLATURE

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APPOINTMENTS DIRECTOR

SENATE RULES COMMITTEE

DON PERATA

CHAIRMAN

January 23, 2006

Frank J. Lloyd
5385 Camp 8 Road
Paso Robles, CA 93446

Dear Mr. Lloyd:

As you know, your appointment to the Board of Barbering and Cosmetology is subject to confirmation by the Senate. We have prepared the following questions to which we would appreciate your written responses. Please have this information in our office by February 17th.

1. *What are your goals and objectives as a member of the Board of Barbering and Cosmetology? What do you hope to accomplish?*
2. *According to information the board submitted to the Joint Committee on Boards, Commissions, and Consumer Protection as a part of the sunset review process, the board has developed recommendations "to determine the most effective manner to disseminate information to licensees, applicants, and the public." Please explain the status of the board's implementation of these recommendations.*

Board Structure

The Board of Barbering and Cosmetology is responsible for licensing and regulating barbers, cosmetologists, electrologists, estheticians, and manicurists. In 1997 the board was sunsetted, and all of its duties, functions, and powers were transitioned to the Department of Consumer Affairs. In 2003 the board was recreated, and it is now scheduled to sunset on July 1, 2007.

3. *Please explain how the board encourages participation in its activities by licensees, applicants, and the public, including participation by individuals with limited English proficiency.*

Foot Spa Infection Outbreak

In 1999 and 2000, more than 100 women were affected by an outbreak of a bacterial infection at a pedicure salon in Watsonville, California. And, in November 2004, over 127 people were infected as a result of pedicures at various salons in San Jose. After the Watsonville incidents, the Barbering and Cosmetology Act was amended to authorize the board to immediately close an establishment found to have severe health and safety violations that pose an immediate threat to public health and safety. The act also requires the board to adopt rules protecting public health and safety, and mandates that the board's highest priority be protection of the public.

Assembly Bill 1263 (Yee) of 2005 would have required the board to adopt regulations concerning the use of pedicure equipment. In his veto message, the governor directed the Department of Consumer Affairs to convene a working group including the board, county health officials, consumer groups, pedicure equipment manufacturers, and other interested parties to determine how to improve the safety of pedicure equipment and ensure appropriate consumer protection.

4. *What has the board done to address the infection outbreak? Did the board use its authority to temporarily shut down the establishments in San Jose? Has the board ever used this authority?*
5. *Do you believe the board needs additional authority to address issues which threaten the public's health and safety? If so, please explain what authority the board needs and what steps the board has taken to obtain the ability to adequately respond.*
6. *What is the status of the working group mentioned above?*

Enforcement Issues

According to a background paper prepared by the Joint Committee on Boards, Commissions, and Consumer Protection, the board spends only 39 percent of its budget on enforcement while other consumer boards typically spend over 60 percent. The paper also notes that even though the board has full authority to increase its fines for violations, it has not modified its administrative fine schedule since 1994. The board's 2004-2005 Strategic Plan indicates that it is currently reviewing and updating the fine schedule, and at its October 24, 2005, meeting the board approved the creation of a task force to study the issue. The strategic plan states that proposed regulations are under review, noting that changes are "needed as the current fine schedule does not serve as a deterrent to violators."

7. *Is your enforcement program adequate to protect the public? Do you believe that the board should spend a larger percentage of its budget on its enforcement program?*

8. *What is the status of the task force created to review the administrative fine schedule? What is the status of the proposed regulations to revise the schedule?*

Administration of Licensing Exams in Women's Prisons

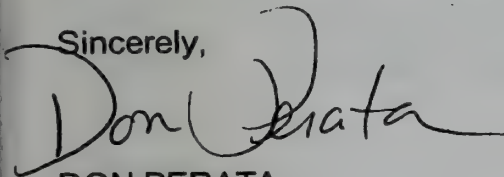
The Valley State Prison for Women provides its inmates with a board-approved cosmetology program, permitting inmates to accrue the necessary hours of training to meet licensure requirements. Although the board in the past has administered the licensing examination in the prison, it does not currently do so, leaving participants in the program unable to enter the profession without delay upon their release. The California Department of Corrections was recently reorganized into the California Department of Corrections and Rehabilitation to place additional emphasis on rehabilitation measures.

9. *Why doesn't the board administer exams in prison as it has in prior years? Do you believe the board should once again administer exams at Valley State?*

Please direct your responses to Nettie Sabelhaus, Rules Committee Appointments Director, Room 420, State Capitol, Sacramento, CA 95814.

Thank you for your help.

Sincerely,

A handwritten signature in black ink that reads "Don Perata". The signature is fluid and cursive, with the first name "Don" and last name "Perata" clearly visible.

DON PERATA

DP:SK:dc

February 16, 2006

Nettie Sabelhaus
Rules Committee Appointments Director
Room 420
State Capital, Sacramento, Ca. 95814

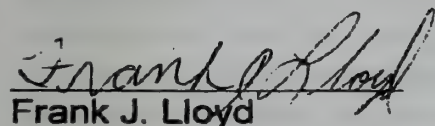
Please find attached my responses to the Rules Committee concerning my appointment to the Board of Barbering & Cosmetology. If you have further questions, please feel to contact me. A hard copy will be mailed.

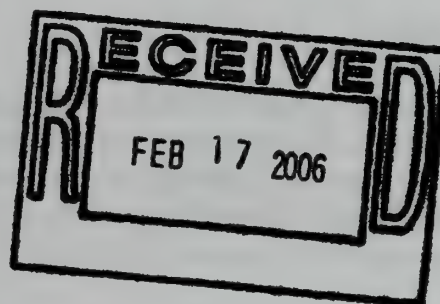
This document contains 4 pages including this cover page.

Frank Lloyd
5385 Camp 8 Rd.
Paso Robles, Ca. 93446

Home Ph. 805 239-5857
Fax 805 239-9036
E-mail flloyd@tcsn.net

Respectfully,


Frank J. Lloyd



Question 1

As a public member of the Board of Barbering & Cosmetology, my primary goal is to protect, promote and represent the California consumer. I will make public education concerning health and safety in establishments as a priority. One of the board's responsibilities is setting policy. I would support policy to promote health and safety in the industry.

Last year, using the Sunset Review Committee's report as a guide line we updated our Strategic Plan. At our February meeting we will be reviewing our progress and updating as needed.

As an appointee and supporter of the Schwarzenegger administration, using the tools available to us, along with the continued support of the Department of Consumer Affairs we can make California's Barbering and Cosmetology profession an industry where the individual consumer does not need to be concerned about the qualification of their operator or health and safety issues when they enter a licensed establishment.

Question 2

The board determined that the most cost effective manner to get information to members of the industry was a quarterly newsletter. The newsletter will have sections for licensees, applicants and consumers. It will be published on the Board's website. The board member, assisting in establishing the newsletter, term expired. There was a delay. Staff has now taken over responsibility of the newsletter. We expect the first edition to be available very shortly.

In addition to the newsletter the board is working with the Department of Consumer Affairs on a consumer awareness program with the main focus as consumer education.

Question 3

The board meetings are attended by licensees, students and public members. Each item we debate, prior to any actions we may take, we ask if there are any public comments. Also there is a public comment time set aside at each meeting.

The examination is offered in many languages. Also proper procedures for cleaning foot spas have been sent out twice in English, Spanish and Vietnamese. Also the board is attempting to hire bilingual inspectors.

Question 4

The board has addressed the foot spa outbreak in San Jose in many ways. The board did a mass mailing to all licensees detailing the correct procedure for properly disinfecting foot spas. Also the importance of proper record keeping was included. The procedures were provided in English, Spanish and Vietnamese. There were articles in trade magazines and public news papers. We have stepped up our inspections of establishments with foot spas. At each inspection, the inspector explains the proper procedure for disinfecting foot spas.

The board has not had to use its authority to shut down any foot spa operators. One establishment in San Jose closed voluntarily.

I sit on the Disciplinary Review Committee. Each time we meet we are still finding numerous violations in the foot spa area. Hopefully with increased inspections and continued education we will see a change for the better in the very near future.

Question 5

Board inspectors do not have authority to remove items from an establishment. They cannot currently test for bacteria. They can currently only visually check spas for cleanliness and if records are up to date. A visual check will only tell them it is clean, it could still be infected with bacteria. There is currently a working group exploring the benefit and feasibility of giving inspector's authority to test spas for bacteria. Based on their report the board will take action to solve the problem.

Question 6

The working group met for the first time February 2, 2006. The workings consists of the Department of Consumers Affairs, Cosmetology School Representatives, Industry Experts, the Department of Health Services, County health Officials, foot spa manufactures and board staff. The group has reviewed the current regulations for cleaning and disinfecting foot spas.

The group agreed on several improvements and recommendations they will make to the board. Their 2nd meeting was February 15, 2006. They will be exploring increased authority for the board.

Question 7

The board needs more inspectors. We currently have 15 inspectors plus two supervisors. There are 35,000 licenses in California. My barber has been open 5 years and has been visited by an inspector once. The inspection division is complaint driven. Most of the inspections are from complaints from some one. Testing is also a priority. A student cannot go to work until he or she passes the test. The board tests 5 days a week in both northern and southern California, so the board will be forced to continue to spend a high percentage of its budget on licensing and examination.

Question 8

The board as a group discussed the fine schedule and determined that changes may be needed. A task force was established to study this issue and make recommendations to the board. Their first meeting will be held March 20, 2006. The task force consists of licensees, school representatives, board inspectors and board members.

Question 9

The board did at one time administer exams at Valley State Prison. It was stopped for several reasons:

- A The safety of examiners could not be guaranteed
- B The examiners were subjected to sexual harassment
- C The job description for examiners did not include going into a prison.
- D Hand carrying the exams into and out of the prison was not in line with examination safety guideline.

If these problems could be corrected I would have no problem supporting a testing program in prison.

FAIR EMPLOYMENT & HOUSING COMMISSION

455 GOLDEN GATE AVENUE, SUITE 10600
SAN FRANCISCO, CA 94102-3660
TEL: (415) 557-2325 FAX: (415) 557-0855



January 24, 2006

Nettie Sabelhaus
Rules Committee Appointments Director
State Capitol, Room 420
Sacramento, CA 95814-4900

RE: Answers to Senate Rules Questionnaire, 12/22/2005

Dear Ms. Sabelhaus:

Per Senator Perata's request dated December 22, 2005, listed below are my answers to his questions regarding my appointment to the Fair Employment and Housing Commission:

- 1.) Please provide us with a brief statement of your goals. What do you hope to accomplish during your tenure as a member of FEHC?**

As a public relations professional, one of my main goals will be to establish a greater awareness of the Fair Employment and Housing Act in our state.

Instead of proceeding with costly litigation to resolve civil rights disputes in the key areas of employment and housing, Californians should be aware of the option of bringing their disputes before an administrative law judge. Californians need to be educated on the many tools their state government offers them.

As a Commissioner of Latino descent and a small business owner, it's critical to protect and promote the civil rights of all Californians. Therefore, I'm committed to assisting the Commission in developing and implementing its regulations and making them known statewide.

- 2.) Please describe your expertise and/or experience in the discrimination categories protected by the Fair Employment and Housing ACT and how that background will help you to fulfill FEHC's mission and responsibilities.**

With over 15 years of experience in public affairs and public relations, I've worked with numerous clients that represent "under-served" Californians. Through my extensive work in this field, I've become acutely aware of the many challenges our diverse population in California faces - it's critical that we educate all Californians regarding their rights.

- I reported directly to Cardinal Roger Mahony during the divisive Proposition 187 campaign and served as his official spokesperson against this initiative to Spanish-language media.

- Directed the advocacy programs for one of Los Angeles County's largest nonprofit healthcare facilities, St. Francis Medical Center in Lynwood, ensuring that the indigent population is not over-looked or forgotten.
 - Worked with the California Empowerment Council, a non-profit organization, formed to promote the social welfare of Latinos in California by encouraging and educating them and other ethnic individuals to participate in the American political system.
 - As a member of the National Association of Women Business Owners- Orange County Chapter (NAWBO-OC) and past Public Policy Director for the organization, I've learned how much work is needed in the area of educating employers to ensure that the rights of their employees are not unknowingly violated.
3. **Please describe your expertise and/or experience in the civil rights laws protected by FEHC (civil hate crimes, employment discrimination, housing discrimination, public accommodation discrimination, and family and medical leave) and how that background will help you to fulfill FEHC's mission and responsibilities.**

Due to my leadership involvement in NAWBO-OC, I've acquired a fair-amount of knowledge regarding fair employment laws. And as a licensed Real Estate Agent and having worked extensively on advocacy issues on behalf of Realtors, I've acquired knowledge of fair housing laws in the state of California.

I am pleased to have been appointed to the Fair Employment and Housing Commission by Governor Arnold Schwarzenegger, and would be honored to have the Senate confirm my appointment.

Thank you for your thoughtful consideration.

Sincerely,

Brenda St. Hilaire
Commissioner

531-R

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26 Evelyn J. Mizak
27 Shorthand Reporter
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APPEARANCESMEMBERS PRESENT

SENATOR JIM BATTIN, Vice Chair

SENATOR ROY ASHBURN

SENATOR DEBRA BOWEN

SENATOR GILBERT CEDILLO

MEMBER ABSENT

SENATOR DON PERATA, Chair

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR BATTIN

CHRIS BURNS, Consultant to SENATOR ASHBURN

DAN SAVAGE, Consultant to SENATOR CEDILLO

ALSO PRESENT

GARY M. PETERSON, Member
California Integrated Waste Management Board

MARK MURRAY
Californians Against Waste

BILL MAGAVERN
Sierra Club California

CHUCK HELGET
Allied Waste Services

ROBERT F. SAWYER, Ph.D., Member
Air Resources Board

ASSEMBLYWOMAN FRAN PAVLEY

1 DAN KALB
Union of Concerned Scientists

2 BONNIE HOLMES GEN
3 American Lung Association

4 STEPHANIE WILLIAMS
5 California Trucking Association

6 KATHRYN PHILLIPS
7 Environmental Defense

8 DOROTHY ROTHROCK
9 California Manufacturers Technology Association

10 LAURIE E. NELSON
Consumer Specialty Products Association

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--ooOoo--

CHAIRMAN BATTIN: We will start our Rules Committee, now that we have a quorum.

Item Number Two, Governor's appointees appearing today, the first one is Gary Petersen, Member of the California Integrated Waste Management Board.

Mr. Petersen, welcome.

MR. PETERSEN: Hello.

SENATOR BOWEN: May I introduce Mr. Petersen?

CHAIRMAN BATTIN: Certainly.

SENATOR BOWEN: I'd like to introduce to all of you Mr. Gary Petersen, who will be and is a fabulous member of the California Integrated Waste Management Board.

MR. PETERSEN: Thank you, Senator.

Thank you, Mr. Chair and Members of the Committee. I have a brief statement I'd like to read.

I'd like to thank you for the opportunity to appear here today. I was honored by the Governor's appointment to the environmental seat on the California Integrated Waste Management Board and welcome the chance to introduce myself to you and share my goals and perspectives with you.

Please let me take a moment to introduce my family who is here with me today. My wonderful wife, Sherrie, and my two great kids, Jesse and Samantha.

CHAIRMAN BATTIN: Welcome.

MR. PETERSEN: That's the A team.

I'm a recycler. I've devoted my professional

1 career to increasing recycling rates in California and across
2 the nation, to improving markets for materials that are diverted
3 from our waste stream into building business and government
4 leadership on sustainability.

5 My primary goal is to help move California beyond
6 the limits of our current diversion rates. We must find ways to
7 improve accessibility of recycling services to the expanding
8 number of Californians who live in multi-family housing. We
9 must increase material diversion from commercial sources, and we
10 must answer questions about new technologies being developed
11 that hold promise, not only for getting us close to zero waste
12 to landfills, but also in addressing climate change issues by
13 reducing greenhouse gas emissions from waste handling and
14 disposal. Key issue.

15 As the board's environmental member, I want to
16 ensure that our state's resource recovery and waste management
17 infrastructure is protective of public health, safety, and the
18 environment, that our decisions are grounded on best possible
19 science, and that the public participates in the process. I see
20 it as my role to be an advocate for sustainability and
21 environmental justice, and as my responsibility to be a leader
22 in these areas on the board.

23 In the short time I've been at the board, I can
24 see that there are some areas that need to be re-evaluated and
25 our strategies changed, plastics for one. Our current approach
26 to market development recycled content requirements for trash
27 bags and the rigid plastic packaging has not met with the
28 success the Legislature surely envisioned. The truth about

1 plastics is that their low value alone will not sustain their
2 return into the recycling process or products. We have success
3 with PET recycling in the beverage container program -- that's
4 the Avian bottles and the Coke bottles -- because there is a
5 price support built into the legislation to support that
6 recovery and recycling. So, perhaps we should take a look at
7 the success of that model for other types of plastics as well.

8 Oil is another thing we need to reexamine.
9 Fifteen years after the Legislature passed California's Oil
10 Recycling Enhancement Act into law, our oil recovery rate hovers
11 around 60 percent. And the market for most of that material,
12 most of that collected oil, is used for bunker fuel in ships.
13 And that is being phased out by the local air districts because
14 of the pollution it causes.

15 It's time we created some incentives for the oil
16 companies to blend re-refined oil into new oil stocks, the
17 ultimate market for a resource that can be used over and over and
18 over again.

19 And universal waste, which is the new one, it's
20 like the orphan of the hazardous waste program. It's quite
21 obvious by recent news accounts that California communities are
22 not well prepared to deal with the onslaught of many of the new
23 materials being challenged to household hazardous waste
24 collection centers. Local governments need additional resources
25 to build permanent facilities for this expanding waste stream.
26 We should be looking to manufacturers to demonstrate some
27 stewardship in dealing with the legacy of their products.

28 It is important that the board improve its

1 efforts to communicate with the Legislature about the board's
2 progress and challenges. And we need to expand our efforts to
3 educate consumers and to encourage their participation in our
4 waste reduction and diversion efforts.

5 We must also enlist the cooperation of corporate
6 partners and leverage our outreach through cross-marketing
7 campaigns that would greatly expand the effectiveness of our
8 public education efforts.

9 I look forward to working with the board, the
10 Legislature, on those matters, very important matters, and I'm
11 prepared to answer any questions that you have at this time.

12 CHAIRMAN BATTIN: Any questions? Senator Bowen.

13 SENATOR BOWEN: I have one.

14 In the answers to the questions, there's a
15 question about the electronics recycling, and the way that we're
16 going to begin to deal with the E-waste Recycling Act.
17 Regulations took effect on February 8th, and you comment that we
18 need to find a way to fund the expansion of the collection
19 infrastructure to handle mercury-containing devices, fluorescent
20 tubes, batteries, and other products common in the waste stream,
21 which I agree.

22 Then you state this is area where the
23 Legislature's leadership is needed.

24 And having just observed our leadership on the
25 issue of bonds for levies and transportation, my question to you
26 is, are there things that you can do without our leadership?

27 MR. PETERSEN: Well, funny you mentioned that.
28 We were -- as a matter of fact, two weeks ago, we were trying to

1 figure out how u-waste -- and I have to tell you, there are some
2 industries that are standing up and helping. Best Buy is
3 thinking about putting kiosks out for the public to use to bring
4 back the u-waste. The problem with all of this is collection.
5 We've got an unfunded mandate imposed on the local jurisdictions
6 to do this.

7 But then we've got some creativity to plug in
8 here. I'm a recycler. I'm a business guy. We came from the
9 grassroots to do this, so we had to invent ways of making things
10 happen, because every time we went to get a loan at a bank or
11 something, they'd throw you out of the place.

12 Anyway, what we're trying to do is enlist the
13 support of the Conservation Corps, the local ones. There's
14 eleven of them around the state. And when I used to run my
15 recycling programs and I couldn't economically go into a certain
16 recycling program or collection system, I would enlist the help
17 of the CCs. You get them grants, or work with them in ways to
18 fund their programs.

19 What I like about it a lot is, it's youth at
20 risk. And we're training these kids about being in business and
21 collecting this stuff.

22 So, we met and had a meeting with the City of Los
23 Angeles and Los Angeles Conservation Corps, and we're planning
24 to try a pilot to see if we can't get in to collect this
25 u-waste, which is very hard to do, from the consumers, and black
26 -- you know, the big boxes, and local retailers like Best Buy.
27 So, we're working on it.

28 But I really think that at some point in time

1 we'll have to come back to you to ask, we need to make some
2 adjustments. It's just like AB 939, or SB 650, the two
3 recycling laws. We came back to get an adjustment on what we
4 were doing. But we hope that'll work.

5 SENATOR BOWEN: I think the other routes that I'd
6 love to see you pursue are working with the Department of
7 General Services. The State of California uses an enormous
8 number of mercury-containing devices, not in this room, but we
9 do actually have fluorescent tubes in a lot of offices. We
10 don't collect that material in the State Office Building in Los
11 Angeles County. And that's one of the easiest places to deal
12 with things that just are coming right out of the office.
13 That's not even people who work there collecting batteries from
14 home, and knowing that there's a place in the office where they
15 can take the flashlight batteries --

16 MR. PETERSEN: Right.

17 SENATOR BOWEN: -- to leave them.

18 Obviously, there's still a collection issue, but
19 we ought to be able to deal with some of that within the state
20 operating budget for some of those other materials that's being
21 collected for recycling.

22 Perhaps we can even work with the Secretary of
23 the Senate to see if we can find a way to have the --

24 SENATOR ASHBURN: To turn in our abacuses.

25 SENATOR BOWEN: To turn in our abacuses for
26 recycling.

27 But the point just is that I think your
28 experience, and part of what you bring to this, and I would have

1 liked to have done a more formal introduction, but I didn't want
2 to jeopardize your appointment.

3 MR. PETERSEN: Thank you, Senator. Me neither.

4 SENATOR BOWEN: You bring to this a lot of
5 experience in finding creative ways to get some of these things
6 done without waiting for the Legislature to act. So, you can
7 perhaps lead us to finding ways where, once we do need to act,
8 that it's just so obvious that it works that it goes on the
9 Consent Calendar.

10 MR. PETERSEN: Thank you, thank you very much.

11 CHAIRMAN BATTIN: Any other questions?

12 Is there anyone here to speak in support of
13 Mr. Sawyer?

14 MR. MURRAY: Mr. Chairman, Members, Mark Murray
15 with the environmental group, Californians Against Waste.

16 We're strongly in support of the appointment of
17 Gary Petersen to the Integrated Waste Management Board and his
18 his confirmation by the Senate.

19 I have known and worked with Gary for some 18
20 years in the recycling field. Gary is one of the godfathers of
21 recycling in California. Some would say the recycler to the
22 stars. His leadership on recycling issues goes back to the very
23 beginning, before I was involved in it, and frankly to the
24 beginnings of some of the seminal programs that we have in place
25 today. Gary was there at the beginning with the bottle and can
26 recycling law. He was there at the beginning with the
27 Integrated Waste Management Act.

28 And where Senator Chesbro talks about how he and

1 others got involved in recycling by developing nonprofit
2 recycling enterprises in Northern California, Gary was creating
3 a for-profit recycling enterprise in Southern California and
4 demonstrating to other businesses, like Waste Management and
5 other recycling companies, that this was an enterprise that not
6 only was good for the environment, but was one that you could
7 make money at and you could create jobs. And Waste Management
8 liked that idea so much they bought the company.

9 So, we're very pleased to welcome him and his
10 expertise and years of experience to the Integrated Waste
11 Management Board, and we are looking forward to working with him
12 for another decade or so.

13 MR. PETERSEN: Thanks.

14 MR. MAGAVERN: Bill Magavern with Sierra Club
15 California.

16 Happy to support the confirmation of Board Member
17 Petersen, and we're really pleased that somebody with his long
18 history in the recycling business is sitting on that board.

19 MR. HELGET: I'm Chuck Helget, representing
20 Allied Waste Industries.

21 We're in fine strong support of Mr. Petersen's
22 appointment.

23 CHAIRMAN BATTIN: Mr. Petersen, I called you by
24 the wrong name. I apologize.

25 MR. PETERSEN: That's okay.

26 CHAIRMAN BATTIN: But everybody knew who I was
27 talking about.

28 Is there anybody else, or anybody in opposition.

1 SENATOR ASHBURN: Move.

2 CHAIRMAN BATTIN: Motion by Senator Ashburn for
3 confirmation. Please call the roll.

4 Oh, anything you'd like to close with.

5 MR. PETERSEN: Oh, no thank you. I'm doing just
6 fine.

7 SECRETARY WEBB: Ashburn.

8 SENATOR ASHBURN: Aye.

9 SECRETARY WEBB: Ashburn Aye. Bowen.

10 SENATOR BOWEN: Aye.

11 SECRETARY WEBB: Bowen Aye. Battin.

12 SENATOR BATTIN: Aye.

13 SECRETARY WEBB: Battin Aye. Three to Zero.

14 CHAIRMAN BATTIN: Congratulations.

15 MR. PETERSEN: Thank you very much, everybody.

16 CHAIRMAN BATTIN: We'll leave it open for Senator
17 Cedillo.

18 [SENATOR CEDILLO later added his
19 Aye vote, as did SENATOR PERATA
20 pursuant to Senate Rule 28.7,
21 thus making the final vote 5-0
22 for confirmation.]

23 CHAIRMAN BATTIN: Our next nominee is Robert
24 Sawyer, member of the Air Resources Board.

25 I'm told that Assemblywoman Pavley was planning
26 on introducing you.

27 DR. SAWYER: Yes.

28 CHAIRMAN BATTIN: We'll let her do that when she

1 comes, but in the meantime, we'll let you introduce yourself.

2 DR. SAWYER: Fine, thank you very much.

3 I'm pleased to be here today. I want to describe
4 my background, tell you why I seek to Chair the Air Resources
5 Board, explain the fundamental principles that I will apply to
6 this position, and outline some of the important issues facing
7 air pollution control in California.

8 I was born in California and spent my early years
9 on my grandfather's farm in Carpinteria, where my
10 great-great-grandfather had settled after the Gold Rush. I went
11 to public schools and then attended Stanford University, where I
12 studied engineering, an interest resulting from my farm
13 experiences as a child.

14 Following graduation, my wife Barbara, who is
15 here today, and I were married almost 50 years ago, and we moved
16 to Edwards Air Force Base where our two daughters, Lisa, now an
17 architect who is also here today, and Allison, now a land
18 economist systems analyst in Sacramento, were born. Allison is
19 off working today. Good for her.

20 During my three years in the U.S. Air Force, at
21 the beginning of the Space Age, I worked with bright, committed
22 people on exciting problems. While in the Air Force, I taught
23 part-time at Antelope Valley College -- should we interrupt now?

24 CHAIRMAN BATTIN: That's up to you.

25 DR. SAWYER: I'm delighted to have you
26 here.

27 CHAIRMAN BATTIN: Welcome. He's doing a great
28 job.

1 ASSEMBLYWOMAN PAVLEY: I'll just do in 30
2 seconds, he is doing a good job, a great job.

3 I personally met with Dr. Sawyer on three
4 occasions, including many Members of the Assembly and the
5 Senate.

6 He's got the background that's certainly
7 impressive, scientific engineering background. He gets air
8 quality issues.

9 I recommend him highly.

10 CHAIRMAN BATTIN: Thank you.

11 DR. SAWYER: Thank you very much, Assemblywoman
12 Pavley.

13 ASSEMBLYWOMAN PAVLEY: You were doing your
14 biography, so I didn't think I needed to do that.

15 Thrilled to have him in this position.

16 DR. SAWYER: Thank you.

17 To continue with my life.

18 [Laughter.]

19 DR. SAWYER: I was teaching part-time at Antelope
20 Valley College, which inspired and motivated me to return to
21 graduate school to prepare for a teaching career. At Princeton
22 University I studied aerospace engineering, earning a doctoral
23 degree. The University of California hired me to fill a faculty
24 position in rocket propulsion. As my daughter says, "My father
25 is a rocket scientist."

26 Again, I was working with bright, committed
27 people on exciting problems. My interest in the chemistry of
28 combustion led to research in the formation and control of air

1 pollutants, which was the focus of my 40-year career at
2 Berkeley.

3 My teaching and research spanned a range of
4 energy and air pollution topics, including public policy issues.
5 I chaired Berkeley's prestigious Energy and Resources Group, an
6 interdisciplinary graduate department at the intersection of
7 environment, energy, and public policy.

8 I previously served as a member of the Air
9 Resources Board in the mid-1970s.

10 I retired from the teaching faculty at Berkeley
11 in 1991 to focus on research, to advise graduate students, and
12 to investigate problems at the intersection of technology and
13 policy. I served as the Senior Policy Advisor at the U.S. EPA,
14 Chaired the Bay Area Air Quality Management District's Technical
15 Advisory Committee, and served on state, national, and
16 international committees that assessed air pollution issues.

17 Then, in 2003, I unretired to take a full-time
18 position in London where, for two years, I headed the University
19 of California Study Abroad Center, looking after 200
20 undergraduate students studying in England, Wales, and Ireland.
21 It was a most rewarding experience.

22 My re-retirement upon returning to California was
23 brief. Why do I want to Chair the Air Resources Board? I am
24 concerned for the -- I am concerned for the world which I will
25 leave to my children and my grandchildren, and to succeeding
26 generations of Californians. Our children deserve to grow up
27 with healthy lungs. The health of all citizens should be
28 protected from the adverse effects of air pollution. Our

1 mountains should be visible.

2 Appointment by Governor Schwarzenegger to head
3 the most respected air quality agency in the world is a great
4 honor.

5 What is my philosophy of air pollution
6 regulation? I'm an environmentalist. I believe that we have an
7 obligation as individuals and as a society to prevent
8 environmental degradation at the global, national, state, and
9 local scales. What California does impacts our nation and our
10 world.

11 Good science leads to good regulation. Providing
12 a sound understanding of the health effects of air pollution and
13 setting science-based air quality standards is essential.

14 Transparency is essential in all that the
15 California Air Resources Board does. The public's business
16 should be conducted in public, and I will do all that I can to
17 ensure that outcome.

18 As an engineer, I'm a pragmatist. I believe in
19 doing things that produce results. That is, things that reduce
20 air pollution emissions and improve air quality in cost
21 effective ways. We need to be careful not to create unintended
22 consequences.

23 Finally, I'm a technological optimist. Most air
24 pollution is technology created, and technology provides the
25 means for reduction or provides alternatives. Energy and air
26 pollution are closely linked; solving our energy problems is
27 consistent with reducing air pollution.

28 What are the important issues facing the Air

1 Resources Board? Motor vehicles remain the dominant source of
2 air pollution in California. Growth continues to erode emission
3 reductions. Dealing with aging vehicles, inspection and
4 maintenance programs, and bringing effective emission controls
5 to heavy-duty trucks and off-road equipment are all important.

6 California's reformulated gasoline and
7 reformulated diesel fuels have made important contributions.
8 However, the next is the introduction of alternative fuels,
9 including ethanol, biodiesel, hydrogen, and electricity in a
10 manner that both reduces greenhouse gases and criteria
11 pollutants.

12 Accommodating greatly increased goods movement at
13 our ports, on our railroads, and on our highways while reducing
14 emissions is a major challenge. In addition to taking full
15 advantage of our limited authority to regulate railroads and
16 international shipping, we must be creative, use incentives, and
17 work with these interests, and with the federal government and
18 international organizations, to reduce emissions.

19 I also have a commitment to listen closely to the
20 communities most impacted by goods movement activities, and to
21 ensure that the board is sensitive to their needs.

22 Science-based regulation depends upon maintaining
23 a strong staff through recruiting, training, and retention. We
24 must continue to draw upon outside expertise. An ongoing review
25 of our health-based air quality standards is essential.

26 The Los Angeles Basin and the San Joaquin Valley
27 have the worst air quality in the nation and present difficult
28 air quality attainment problems. The Air Resources Board must

1 work with the South Coast and the San Joaquin Valley Air Quality
2 Management Districts to reduce emissions.

3 And finally, assessment and enforcement are
4 essential parts of air quality control. We must check to ensure
5 that our air quality regulations are producing the results
6 desired and make adjustments if they are not.

7 In conclusion, clearly I'm a failure at
8 retirement, having tried it twice.

9 [Laughter.]

10 DR. SAWYER: So why would I apply for this
11 position?

12 Once again, I will be surrounded by bright,
13 committed people and exciting problems. I still want to make a
14 difference in this world, and I think that I can do that at the
15 Air Resources Board.

16 I do sincerely hope that you will conclude that
17 I'm the right person to lead the California Air Resources Board.
18 I look forward to your questions.

19 CHAIRMAN BATTIN: Thank you very much.

20 Members, do you have questions? Senator Bowen.

21 SENATOR BOWEN: Thank you.

22 Since Senator Perata is not here, and he and I
23 both share districts where there is a port and goods movement is
24 important for the economy, but also bears a disproportionate
25 impact on the local communities: Oakland, Wilmington, Long
26 Beach, San Pedro.

27 You referenced providing incentives in dealing
28 with the fact that we don't have the ability to regulate

1 emissions reductions on ocean-going ships and locomotives, which
2 of course are among the major sources of air pollution and
3 particulate matter. What kind of incentives do you think might
4 be workable to attempt to deal with the local impacts on
5 communities located near ports and railroad yards?

6 DR. SAWYER: One of the big issues are the
7 drayage trucks at the ports, of which there are tens of
8 thousands of old trucks in this application. They tend to be
9 owned and operated by people who cannot really afford to clean
10 them up.

11 Some of the proposals of the possibly coming bond
12 issue, which are being worked out between the Governor's Office
13 and the Legislature, contain monies to subsidize the turnover of
14 these trucks into cleaner models, or into models that can be
15 retrofitted to reduce emissions. That's one activity which can
16 take place.

17 Another is to encourage by the partial use of
18 public funds, paired with industrial funds, of a more rapid
19 turnover of switch engines at the railroad yards. And other
20 port facilities similarly can be encouraged, or legislated by
21 rule-making, required at the port facilities.

22 And we'll certainly work with the ports and with
23 the local air quality management districts because it's going to
24 take all of our efforts and imagination to constrain the
25 emissions growth that come with the goods movement growth.

26 SENATOR BOWEN: When it comes to shipping, the
27 Port of Los Angeles has done some work with the Los Angeles
28 Department of Water and Power, David Freedman, towards cold

1 ironing.

2 Which, for people who don't know, doesn't mean
3 pressing your shirt without your iron plugged in. It involves
4 plugging a ship into shore power so that it's not using its more
5 polluting on-board power generation methods.

6 What role will the Air Board have in dealing with
7 and encouraging cold ironing? And what kinds of issues,
8 particularly compatibility, where you have different power
9 systems on different ships that really make it difficult to get
10 an effective cold ironing program?

11 DR. SAWYER: We think cold ironing is an obvious
12 choice to reduce the emissions of the ships while they're in
13 port.

14 I would note that the military, the U.S. Navy, at
15 all of its ports in California, primarily in San Diego, uses
16 cold ironing and has for many years aboard those ships.

17 So, it's not a technology which is new or
18 requires anything terribly great, except the investment to make
19 the ships compatible with on-shore power.

20 We would expect that that condition would be
21 placed upon use of the ports, and we would certainly back that.

22 SENATOR BOWEN: I've gotten from many in the
23 business community that, particularly for ocean going ships,
24 that many will just go to Portland, Oregon or Seattle, or use a
25 different port if our ports start to impose a cold ironing
26 requirement, because they cannot use the same investment when
27 they get to Hong Kong, or Singapore, or whatever other ports of
28 call they're making.

1 DR. SAWYER: Well, as you probably concur, the
2 Ports of Long Beach and Los Angeles are strategic in their
3 location and their ability to handle large amounts of cargo
4 coming into the United States. We believe that the shipping
5 companies will work with us to sustain that because they really
6 need that access to bring goods into the United States.

7 We certainly believe that there should be
8 flexibility provided. And if the shipping companies can come up
9 with alternative ways of accomplishing the same thing, that
10 would be fine, too. And often regulations of that sort induce
11 companies to come up with alternatives, and that's fine.

12 SENATOR BOWEN: Let's go to the talking analog of
13 the shipping situation, which is the idling of the big rigs when
14 the driver stops for a break.

15 I know there's been some effort to change the
16 truck stops along the I-5 corridor to assist them, in which a
17 truck driver can simply pull in a tube. People may have driven
18 along the I-5 corridor and seen these big scaffoldings that have
19 a bunch of tubes that come down that have air conditioning,
20 heat, often broad band internet service, and allow the truck
21 driver to switch, again, to the equivalent of shore power.

22 We're having a discussion about in particular the
23 I-99 corridor, the California 99 corridor, and changing that,
24 upgrading that.

25 What kinds of things can the Air Board do to help
26 encourage those kinds of facilities to be built? Are they
27 economically viable on their own at this point, or are we still
28 having to provide a public subsidy to encourage that kind of

1 shift?

2 DR. SAWYER: It's my understanding that they're
3 almost economically viable on their own because the saving of
4 fuel by not idling the engines overnight, which has been the
5 common practice.

6 It's just a matter of working out how to transfer
7 the funds to accomplish this. And if it's appropriate to
8 provide funds to encourage this, or to arrange loans for the
9 installation of these facilities, that's certainly something
10 we'd want to investigate with the Legislature and the Governor's
11 Office.

12 SENATOR BOWEN: It seems to me that as we look at
13 work on our bonds, it's incumbent on us to look at where we
14 might build in the kinds of facilities where we can do that,
15 because a lot of that affects the Central Valley
16 disproportionately, and those are where the major trucking
17 routes are. The major trucking routes do not go through my
18 coastal Los Angeles district. We don't have port traffic coming
19 from Marina Del Rey to Sacramento.

20 DR. SAWYER: Yes.

21 SENATOR BOWEN: The question of the health
22 effects of pollution from goods movement, especially in port
23 communities, is there anything specific, aside from the things
24 that we've been talking about, that the Air Board can do in
25 those communities to address health impacts of increased goods
26 movement?

27 DR. SAWYER: Well, as you know, there's been a
28 large increase in goods movement over the last 20 years, and

1 that's come with a disproportionate impact of emissions
2 primarily from diesel engines from locomotives and trucks.

3 Our regulatory program to reduce emissions from
4 trucks certainly is paying off in reducing that, but growth
5 really is hard to overcome.

6 As you know, we've been -- the board was involved
7 in a controversial MOU with the railroad industry before I
8 arrived. We believe that implementation of the MOU will indeed
9 reduce emissions from locomotive operations, but this sector
10 must provide additional reductions.

11 We will do everything we think of within our
12 legal jurisdiction to cause that to happen. We certainly want
13 to work with the South Coast Air Quality Management District,
14 not against them, in these activities.

15 SENATOR BOWEN: Thank you.

16 I have nothing further.

17 CHAIRMAN BATTIN: Senator Ashburn.

18 SENATOR ASHBURN: I just want to raise the issue
19 of biodiesel. You talked a lot about dirty trucks and diesel
20 engines. The wise reuse of otherwise discarded oils for a fuel
21 source is promising and makes a lot of sense.

22 I carried legislation, as you know, to facilitate
23 the federal government's use of the conversions that have taken
24 place. It looks like there's a chokehold with the Air Resources
25 Board in approving conversion kits.

26 What can you do to help move this along? Every
27 day of delay is more dirty air.

28 DR. SAWYER: Senator Ashburn, after I talked to

1 you a few days ago I went back and checked with my staff on what
2 the situation was. I can give you a little bit more information
3 on what is happening.

4 There has been one particulate filter retrofit
5 kit approved for use with B-20 fuel. Because this has been
6 successful, our staff has indicated that they will approve other
7 units for B-20 on a comparability basis, as long as the devices
8 seem similar to the one that's already been approved, and it'll
9 be approved. So, it's almost an automatic approval for B-20.

10 We are a little bit concerned about how these
11 units will work, and we are, at the request of the U.S. Marine
12 Corps at Pendleton, beginning to work with them on a program
13 where they will be putting more units on their nonmilitary
14 vehicles and using B-20s, so we'll get more information.

15 It turns out that the bottleneck is with the
16 manufacturers of the traps, the particulate traps, in that we
17 require a warranty to be provided by the people who make the
18 traps, and lacking more experience with the B-20, they are not
19 willing to provide warranties. We are working with them to see
20 if we can eliminate that bottleneck, if indeed there is a
21 bottleneck. It's a little bit different from what I thought at
22 the time I talked to you.

23 SENATOR ASHBURN: I appreciate that.

24 Again, sometimes, and I think this may be
25 particularly true when we talk about the official agencies of
26 government that are committed to environmental protection, the
27 search for perfection sometimes gets in the way of substantial
28 incremental change and improvement. And I think that absolutely

1 maybe the case here.

2 The delays that have taken place have resulted in
3 greater emissions, not less. The search for this guarantee in
4 a warranty impedes the movement that otherwise would take place
5 to the conversion, which would be beneficial to the air.

6 So, I would request of you that you move your
7 people along as expeditiously as possible. Sometimes we don't
8 get to perfection immediately, but the incremental improvement
9 is beneficial to the public and helps us along the way in our
10 goals.

11 You've taken on a substantial responsibility
12 here, and we're counting on you.

13 I have to tell you, I'm impressed with your
14 presentation today. You cracked at least three jokes.

15 [Laughter.]

16 SENATOR ASHBURN: I would say that's a
17 significant improvement over our interview in the office, where
18 I found you to be very much an engineer.

19 [Laughter.]

20 SENATOR ASHBURN So, I'm actually quite hopeful
21 for your success --

22 DR. SAWYER: Thank you.

23 SENATOR ASHBURN: -- and wish you all the best --

24 SENATOR BOWEN: Let's not use the term engineer
25 in such a pejorative manner.

26 [Laughter.]

27 DR. SAWYER: I am an engineer.

28 SENATOR BOWEN: I come from a family of

1 engineers.

2 CHAIRMAN BATTIN: Mr. Sawyer, I have a couple of
3 questions for you myself.

4 In your response to the Committee questions, you
5 were very adamant in some of your answers. You quote, "adopt
6 greenhouse gas emission standards for motor vehicles," and we
7 need to, quote, "need to reverse the emissions trend," and
8 you're committed to using ARB's regulatory power to the fullest
9 extent. You talked a few minutes ago about motor vehicles.

10 My question is not meant to be antagonistic, so
11 please take it that way.

12 Reviewing your Form 700, you're quite the
13 stockholder in Coming to Diesel, and CalPine, and Ford Motor
14 Company, PG&E, United Parcel Service. I would imagine that all
15 of these companies that you own stock in, or maybe you disposed
16 of those stocks --

17 DR. SAWYER: I have disposed of all of the
18 stock.

19 CHAIRMAN BATTIN: -- on the 11th of January of
20 this year.

21 It doesn't -- square those together for me,
22 because doesn't make sense to me.

23 DR. SAWYER: Okay. I'm an engineer. I like
24 engineering companies. I invest in these companies because
25 they are mostly profitable, but not entirely.

26 And it is these companies that are going to solve
27 our air pollution problems for us. They're the ones who have to
28 come up with the technology, and we have to work with them.

1 No matter how many regulations we pass, if they
2 decide not to do it, we're in nothing but big trouble and there
3 are no emission reductions.

4 I believe in American industry. And I invested
5 in them, and I'm glad that I did. I'm sorry I had to sell the
6 stocks, but I think that was easiest way to avoid conflict of
7 interest.

8 CHAIRMAN BATTIN: You sold all your stocks?

9 DR. SAWYER: Essentially everything that the
10 California Air Resources Board regulates, which unfortunately
11 was everything.

12 [Laughter.]

13 SENATOR ASHBURN: You're learning fast.

14 CHAIRMAN BATTIN: So, you didn't see that any of
15 these companies were contributing to pollution, or you haven't
16 seen that their past history has regulated them or fined them?
17 You didn't have a problem with any of that?

18 DR. SAWYER: No, I don't see any inconsistency
19 with being an environmentalist and having the California Air
20 Resources Board asking these companies to do their part, as a
21 stockholder or as a citizen of California.

22 CHAIRMAN BATTIN: Okay, thank you.

23 Senator Cedillo, any questions?

24 You introduced your family; correct.

25 DR. SAWYER: Yes.

26 CHAIRMAN BATTIN: Is there anybody here to speak
27 in support?

28 MR. MAGAVERN: Committee Members, I'm Bill

1 Magavern with Sierra Club California.

2 We enthusiastically support the confirmation of
3 Dr. Sawyer for the Air Resources Board.

4 As Dr. Sawyer indicated, the health of our
5 children in part depends on the efforts of the Air Resources
6 Board, and that's why we think it's so important to have someone
7 as the Chair who has the credentials that he has. We think he's
8 clearly the right person for the job because of his scientific
9 expertise, his background in public policy, and his commitment
10 to clean air.

11 And I would say Dr. Sawyer is someone who really
12 walks the walk when it comes to clean air. When I called him
13 last year because I heard that he was the front runner for this
14 position, he said he was coming to Sacramento on the train and
15 insisted that he would walk the dozen blocks from the train
16 station to my office. So, he got from his home in Berkeley to
17 my office in Sacramento in the cleanest way possible, I think.

18 I also want to thank the Committee for scheduling
19 this hearing at this early date because I think that really
20 gives Dr. Sawyer the mandate that he needs and deserves to lead
21 the Air Board through the challenges that it face in the coming
22 months and years.

23 MR. KALB: Members of the Committee, Dan Kalb,
24 representing the Union of Concerned Scientists; sometimes we're
25 called Union of Concerned Scientists and Engineers.

26 As you know, the Chair of the Air Resources Board
27 is one of most important environmental positions in the state,
28 and fortunately today you have the opportunity to confirm an

1 eminently qualified individual to that position.

2 As you know, Dr. Sawyer is recognized as one of
3 the state's and nation's leading air quality experts. His
4 expertise and his demonstrated commitment to rigorous analysis
5 and to practical solutions to our air quality problems is beyond
6 question.

7 We strongly urge your support for his
8 confirmation today. Thank you.

9 MS. HOLMES GEN: I'm Bonnie Holmes Gen with the
10 American Lung Association of California.

11 We are strongly supportive of Dr. Sawyer. We're
12 extremely pleased that he's been selected. We think that his
13 background, of course, is excellent. His background in air
14 quality, his international reputation, and his stature as a
15 scientist will be incredibly helpful to the Air Board.

16 We believe that he will be a strong advocate and
17 a strong leader on behalf of air quality and public health, and
18 we strongly support him.

19 Thank you, Mr. Chairman and Members.

20 MS. WILLIAMS: Good afternoon. Stephanie
21 Williams with the California Trucking Association.

22 We urge your aye vote on his appointment.

23 MS. PHILLIPS: I'm Kathryn Phillips with
24 Environmental Defense.

25 We'd just like to add our strong support to this
26 nomination. Thanks.

27 MS. ROTHROCK: Hello, Committee. My name is
28 Dorothy Rothrock. I'm with the California Manufacturers

1 Technology Association.

2 I'd like to add a little balance to the support
3 here. And we -- CMTA supports cost effective regulations with
4 transparent processes based on sound science. That's why we
5 support Dr. Sawyer in this position.

6 Thank you.

7 MS. NELSON: Laurie Nelson on behalf of the
8 Consumer Specialty Products Association.

9 I'm here to vouch for what Dr. Sawyer said. The
10 Air Board does indeed regulate everything.

11 And we also agree that good science equals good
12 regulation, and we urge your support.

13 Thank you.

14 CHAIRMAN BATTIN: Anyone in opposition?

15 SENATOR BOWEN: Move the nomination.

16 CHAIRMAN BATTIN: Would you like to close? Do
17 you have anything final to say?

18 DR. SAWYER: No, no jokes.

19 CHAIRMAN BATTIN: Your confirmation's been moved
20 by Senator Bowen.

21 Please call the roll.

22 SECRETARY WEBB: Ashburn.

23 SENATOR ASHBURN: Aye.

24 SECRETARY WEBB: Ashburn Aye. Bowen.

25 SENATOR BOWEN: Aye.

26 SECRETARY WEBB: Bowen Aye. Cedillo.

27 SENATOR CEDILLO: Aye.

28 SECRETARY WEBB: Cedillo Aye. Battin.

1 SENATOR BATTIN: Aye.

2 SECRETARY WEBB: Battin Aye. Four to zero.

3 CHAIRMAN BATTIN: Congratulations.

4 DR. SAWYER: Thank you all very much.

5 [Thereafter SENATOR PERATA added
6 his aye vote pursuant to Senate
7 Rule 28.7, making the final vote
8 5-0 for confirmation.]

9
10 [Thereupon this portion of the
11 Senate Rules Committee hearing
12 was terminated at approximately
13 2:18 P.M.]

14 --ooOoo--
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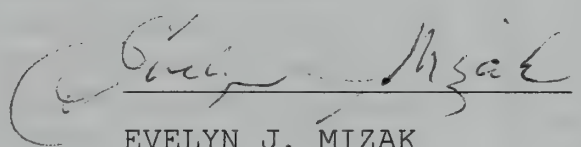
CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of March, 2006.


EVELYN J. MIZAK
Shorthand Reporter

APPENDIX

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California Integrated Waste Management Board

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www.ciwmb.ca.gov



31

n C. Lloyd, Ph.D.
Secretary for
Environmental
Protection

Arnold Schwarzenegger
Governor

February 3, 2006

Ms. Nettie Sabelhaus
Appointments Director
Senate Rules Committee
State Capitol, Room 420
Sacramento, CA 95814

Dear Ms. Sabelhaus:

Thank you for the opportunity to provide Senator Perata and his colleagues on the Senate Rules Committee with my goals and perspectives as the Governor's environmental representative to the California Integrated Waste Management Board.

I am honored to have the privilege of serving on the board, and humbled by the great responsibility and trust that service entails. The board has primary responsibility in state government for reducing waste, diverting post-consumer resources to new uses, and ensuring that solid waste handling and disposal facilities operate in a manner that protects public health and safety and the environment. Since 1990, when California's landmark Integrated Waste Management Act took effect, our state has made huge strides in these areas. No matter our successes, there is always room for improvement and I am committed to working with my fellow board members to increase diversion and strengthen markets for recovered resources, protect public health and safety, and preserve our environment for the future.

Following are my responses to the questions posed in Senator Perata's letter of January 17, 2005.

1. Goals

Please provide us with a brief statement of your goals. What do you hope to accomplish during your tenure as a member of the board?

My primary goal is to help advance California's recycling/diversion rate beyond 50 percent. Twice, our state has taken on a position of national leadership on recycling. Originally, in the late 1970's the Legislature enacted Senate Bill 650,

California Environmental Protection Agency

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which provided grants that were a proving ground for the development of curbside recycling programs in this country. Then in 1989, the Legislature enacted Assembly Bill 939—the Integrated Waste Management Act—facilitating the creation of our existing statewide waste diversion infrastructure. We need to continue every effort to strengthen and improve markets for recovered materials here in California; but, by nearly every measure the Integrated Waste Management Act has been a resounding success.

Today, we are on the verge of another potential breakthrough in waste management. There are new technologies being developed that can bring us close to zero waste to landfill as long as they are fully protective of public health and the environment. They may also play a role in addressing climate change issues by reducing greenhouse gas emissions from waste handling and disposal. We should be encouraging a full exploration of their possibilities, for despite our success in waste diversion, California is burying almost as much waste in landfills today as it was in 1990. I would like to work with the Legislature, the board, other state and local agencies, the environmental community and community organizations in that exploration.

In addition, I would like to help revamp the measurement system we use to judge our diversion success. Our current system is neither accurate nor timely. Today, we measure what jurisdictions throw away in order to estimate what they save, using economic indicators that are not available for more than a year after the garbage crosses the landfill scales. We need a system that measures real programs and provides more immediate feedback to local government so that they can adjust and improve their programs to maximize their effectiveness.

2. Environmental Member

You have been appointed to the slot on the Waste Board designated for “an elected or appointed official of a nonprofit environmental protection organization whose principal purpose is to promote recycling and the protection of air and water quality.” How do you view your role and responsibilities as a board member appointed to this slot on the board?

Every member of our board has the responsibility to be an environmental steward. We must guide the development of state policy that encourages the sustainable use of our resources, with special focus on those resources that are available in our waste stream. We must also ensure that California’s resource recovery and waste management infrastructure is protective of public health and safety, that our decisions are grounded in the best possible science, and that the public participates in the process. It is my role to be an advocate for sustainability and environmental justice, and it is my responsibility to be a leader on the board in these areas. I have been doing this for more than 35 years and am excited about the opportunity to put my experience to work for the citizens and environment of California.

3. Increasing Waste Diversion

Since 1989, California's diversion rate for solid waste (diverted through reduction, recycling or composting) has steadily increased from roughly 10% in 1989 to 48% in 2002. But in recent years, the diversion rate has leveled off. Why do you think diversion of solid waste from disposal has not increased? What steps would you advocate as a board member to increase reduction, recycling, and composting of solid waste?

A number of factors are responsible for the slow-down in California's diversion rate. Most significant among these are increasing construction activity in the state and our growing population and economy. The greatest opportunities for increasing diversion lie in those portions of the waste stream that can still be easily recovered, based on ongoing waste characterization analysis.

The advent of single-stream recycling—putting all recyclables in a single container—has brought public participation in recycling programs to an all-time high. Yet, there are still major challenges to raising the level of commercial recycling and in providing recycling services to multi-family structures. This needs to be a priority for the Board and local agencies, in addition to a continuing emphasis on high-percentage materials in the waste stream, including construction and demolition material, paper and yard waste.

We can't lose sight of our progress. Despite a slow-growing diversion rate, California continues to make huge strides in keeping waste out of landfills. Over the five-year period from 1999 to 2004, diversion rose nearly 70 percent—from 22 million to 37 million tons annually.

4. Local Compliance with IWMA

Despite the state's overall successes in promoting reduction, recycling, and composting, some jurisdictions continue to be out of compliance with the diversion requirements of the Integrated Waste Management Act. What steps will you support to help bring those jurisdictions into compliance, or to impose appropriate sanctions for failure to comply?

Statute provides flexibility for the board to recognize "good faith efforts" in considering local jurisdictions' compliance with the law. The concept of a good faith effort, I believe, goes directly to the heart of the Integrated Waste Management Act, which is that each and every jurisdiction is expected to do their best to reach the goal. I am an ardent fan of the 50 percent diversion goal, as well as higher goals if local conditions permit; but, as a recycler with many years of experience—both collecting materials and finding and creating markets for them—I can say with some authority that there are practical limitations to some jurisdictions' ability to reach 50 percent.

The board has adopted procedures for determining the level and severity of fines for jurisdictions if they fail to live up to compliance agreements they have established

with the board. Jurisdictions that do not make good faith efforts to increase diversion should be penalized, and I will support penalties in these cases. My consideration of compliance issues, as well as the assessment of penalties, will weigh a jurisdiction's commitment to maximizing diversion—its programs and their operation—in addition to diversion rates, and take into account the accuracy of the measurement system.

5. Market Development

Most observers believe that the success of recycling programs depends upon strong and predictable markets for recycled materials. Would you take steps to strengthen market development for recyclable materials in the state? Do you believe that those who manufacture and sell products in the state should assume some responsibility for their ultimate disposal, as has been required in Europe, the Far East and other economies?

Strong markets are critical to the continuing health of California's recycling infrastructure, and real progress is needed in the development of recycled-content product manufacturing here in California and throughout the U.S. I believe strongly that those who manufacture and sell products or produce their component materials—especially those that make recycling difficult or costly—should participate in the development of strategies and systems to ensure the collection and recycling of post-consumer materials.

6. Conversion Technologies

In 2002, the Legislature and governor enacted AB 2770 (Chapter 740 Statutes of 2002) that directed the board to prepare and submit to the Legislature a study on conversion technologies (facilities that "cook" solid waste at various temperatures to reduce volume, and in some cases, to produce gases or fuels as a byproduct) and appropriated \$1.5 million to do the report. The program called for an evaluation of conversion technologies, including a scientific peer review. Since the report was completed, there have been both waste board and legislative oversight hearings on the recommendations contained in the report.

What role do you see for the use of conversion technologies in integrated waste management? Do you believe that those materials that can be economically recycled or reused can be removed from solid waste prior to their processing through conversion facilities? Do you believe the board and local enforcement agencies should issue permits for these facilities similar to those required of other solid waste facilities? Should solid waste diverted through conversion technologies be counted toward a local agency's diversion requirements? Please explain your reasons for your responses.

If new technologies can be fully protective of public health and improve our environment, then they should become a key part of our integrated waste management strategy. We should evaluate these emerging technologies on two

fronts. First, emissions data must show that projects would meet regulatory requirements—not by just a little, but by a significant margin. In addition, we should examine their impact on greenhouse gas emissions.

My first love is recycling; consequently, I think it would be wrong not to pull everything worthwhile out of the waste stream first. What we should be looking at is potential for producing energy, fuels and other products from the residuals of our waste stream—after removing marketable materials—instead of landfilling them. For residuals coming from a materials recovery facility (MRF) that handles source separated recyclables, this may mean nothing; for a “dirty” MRF that handles waste that has not been separated, this could mean an additional 10 percent recovery rate at a minimum.

Permitting by the board and its local enforcement agencies should address solid waste handling activities related to conversion facilities. Other regulatory entities such as local air districts would seem more appropriate for regulating the actual conversion processes. Where to draw the line between solid waste processing and industrial processing is the issue that needs to be addressed.

I don't believe diversion credit is necessary even though statute grants up to 10 percent diversion credit for transformation (waste-to-energy) or biomass conversion, which offer less benefit. The question is what to do with the residuals from our material recovery programs. Do we bury them in landfills or are there other, more environmentally preferable alternatives available? If yes, then we should explore them fully.

7. Electronics Recycling

California enacted one of the first laws in the country to promote the recycling of so-called “electronic waste” (i.e. old TV's, computer monitors, and other electronic devices). Some environmental groups and industries contend that the manufacturers, and not consumers, of electronic products should assume ultimate responsibility for the costs of recycling those devices. Others contend that consumers should pay those costs. In your view, who should bear the costs of recycling electronic wastes?

Manufacturers should be at the forefront in creating reliable strategies and mechanisms for recovering and recycling their products. The costs to collect and recycle electronic wastes should be shared by all parties involved in the product chain: manufacturers, distributors, retailers, government and consumers. Regardless of where the financial responsibility is placed, the consumer will pay in the long run; either with a visible fee at the point of purchase, an increase in product price (to cover manufacturer's increased costs), or at the point of disposal.

A year ago, California's E-waste Recycling Act placed an advance recycling fee on the purchase of certain electronic devices with video screens. This fee is supporting payments to collectors and recyclers so that local government is not burdened by

the expense. The Legislature created this program after the Department of Toxic Substances Control clarified that CRTs (the old-style picture tube TVs and computer monitors) were hazardous waste when discarded.

On February 8, 2006, regulations take effect making other types of "universal" waste, discarded by consumers, hazardous waste. We need to find a way to fund the expansion of our household hazardous waste collection infrastructure to handle these materials—including mercury-containing devices, fluorescent tubes, batteries and other products common in the waste stream. This is an area where the Legislature's leadership is needed.

8. Waste Tire Diversion

The board has successfully helped divert a large number of used tires from existing stockpiles in the last several years. However, many others are still used as a source of fuel and are combusted. Are other diversion programs available and could they be developed to divert used tires to other recycling uses?

A rich mixture of waste tire recycling strategies is necessary to ultimately eliminate tires from landfills. The board has supported development of rubberized asphalt concrete (RAC) paving projects, civil engineering uses of tire-derived aggregate (TDA), molded rubber products, and projects that produce crumb rubber. So far, rubber-based paving and civil engineering uses of tires offer the greatest potential for expanded market development.

Enactment last year of AB 338, Levine (*Ch. 709, Stats. 2005*), requires the California Department of Transportation to expand its use of RAC on state highway construction and repair projects. In addition, the board is undertaking an extensive outreach campaign to encourage to foster increased use of both RAC and TDA by local agencies and is offering more than \$5 million in grants this fiscal year for RAC projects. I am encouraged that these efforts will produce significant and measurable market expansion for tire-derived products.

9. Enforcement

Recent reports from the Bureau of State Audits and from the Office of the Secretary of CAL-EPA suggest that the enforcement of solid waste laws and standards by the board and by local solid waste enforcement agencies is uneven and, at times, ineffective.

These reports suggest that the board and local entities rarely impose civil and criminal penalties for serious violations, that private waste facilities generally are regulated more stringently than public facilities, and that enforcement agencies, at times, have direct conflicts in enforcement because they are part of same local governments who derive income from the operation of solid waste facilities.

What specific steps do you support to improve enforcement of solid waste laws and standards?

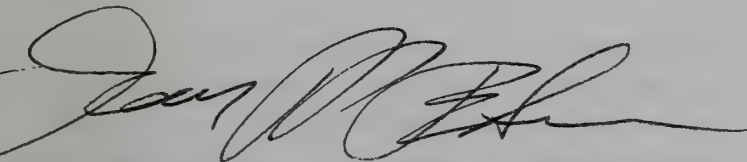
As the environmental representative on the board, one of my key concerns is the balance between regulations that effectively protect human health and safety and the environment, without stifling business opportunities, and the need to enforce these regulations diligently when warranted. Over the years, various concerns have been raised about the efficacy of solid waste enforcement by the board and local enforcement agencies (LEAs) and about potential conflicts of interests that may exist when LEAs regulate publicly operated solid waste facilities. In my view, the board has addressed some of these concerns very effectively, while others require further attention including additional statutory changes.

One specific step needed to support improved enforcement of solid waste laws and standards is to provide more statutory authority for the board and LEAs. In particular, there is no authority to impose criminal penalties for violation of solid waste laws and regulations, only limited ability to impose civil penalties, and limited ability to address illegal disposal. In addition, although AB 2159, Reyes (*Ch. 448, Stats. 2004*) helped address problems with the appeal process, the process still can stymie or deter LEA enforcement.

I am also concerned the board lacks the ability to reject incomplete or incorrect solid waste facility permit applications and that the board's staff often faces unacceptably short time frames for completing permit reviews. I need more time to understand the board's ability to address these issues administratively, but look forward to working with the Legislature on statutory changes should they be needed.

Thank you again for the opportunity to provide this information to the Senate Rules Committee. If additional information is needed on any subject, please contact me at (916) 341-6035.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gary M. Petersen", with a stylized, flowing script.

Gary M. Petersen
Board Member



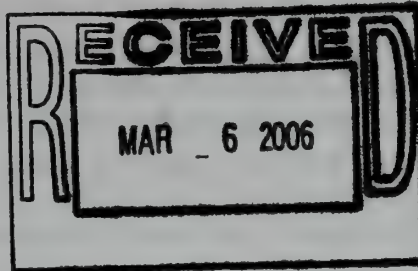
Alan C. Lloyd, Ph.D.
Agency Secretary

Air Resources Board

Robert F. Sawyer, Ph.D., Chair
1001 I Street • P.O. Box 2815
Sacramento, California 95812 • www.arb.ca.gov



Arnold Schwarzenegger
Governor



March 6, 2006

Ms. Nettie Sabelhaus
Appointments Director
Senate Rules Committee
California State Senate
State Capitol, Room 420
Sacramento, CA 95814-4900

Dear Ms. Sabelhaus:

Thank you for the opportunity to summarize my goals and objectives as Chair of the California Air Resources Board (ARB) and to respond to the Rules Committee's specific questions.

General

1. **What are your goals and objectives as the Chair of the Air Resources Board? What specific policies are you promoting to maintain the board's tradition as a leader and pacesetter in clean air policy?**

Protecting public health is the highest responsibility of the ARB. Public health must drive ARB's mission. As Chair, I will support the Board's investment in health related research and the implementation of effective regulations to reduce harmful emissions. I will emphasize the importance of science-based regulation, maintaining and strengthening the expertise of the ARB staff, and consulting outside experts. Good science leads to good policy. ARB's decision making processes need to be fully transparent to all. The public's business should be conducted in public. Effective leadership and the faith and trust of the public go hand in hand. As a life-long educator, I believe strongly in the power of communication. We need to communicate our knowledge of air pollution, our efforts to address it, and how our decisions and regulations will improve people's lives.

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website: <http://www.arb.ca.gov>.

California Environmental Protection Agency

Ms. Nettie Sabelhaus
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 Page 2

- 2. The Governor's Environmental Action Plan states that the Administration will reduce air pollution emissions by 50 percent by 2010. What specific measures are you and the board taking to implement the plan? Please specify the emission reductions from each measure and how the measures meet the Governor's stated objectives.**

ARB is pursuing four efforts to implement the Governor's vision for reducing air pollution by 50%. As Chair, I will monitor these efforts closely to ensure that ARB comes as close to that target as possible.

First, the 2003 State Implementation Plan (SIP) for the South Coast Air Quality Management District is designed to achieve a 50 percent reduction in ozone forming emissions by 2010 through a combination of federal, state and local measures. The SIP relies on a mix of adopted rules, rules under development, and measures to be further defined in 2007-2008 timeframe. The State element of the 2003 SIP lists 19 measures to be developed by ARB. See Attachment 1 for the list and corresponding emission reductions. Attachment 2 lists potential regulations for ARB consideration in the 2005-2006 timeframe. More information is included in my response to Question 3 below. The 2003 SIP will be updated in 2007 to address new, more stringent federal standards for ozone and PM. The San Joaquin Valley plan will be updated at the same time, adding additional Valley-specific strategies to the mix. All other federal non-attainment areas in California must prepare SIP updates in 2007-2008, but they should not alter the contours of ARB's overall attainment strategy which will be based on the needs of the most severely polluted areas - the South Coast and the San Joaquin Valley.

Second, ARB's comprehensive Diesel Risk Reduction Plan, adopted in 1999, commits to 75% diesel PM emission reductions by 2010, rising to 85% by 2020. ARB has already adopted nine regulations addressing approximately 15% of the 1.2 million diesel engines in the state. Those regulations include new standards for 1) trash trucks; 2) transportation refrigeration units; 3) portable engines; 4) stationary engines; 5) heavy duty vehicle idling; 6) locomotive and harbor craft fuel fueling requirements; 7) public and utility on-road fleets; 8) cargo handling equipment at ports and intermodal yards; and 9) marine vessel auxiliary engine fuel requirements. ARB has five rulemakings scheduled for 2006 and 2007 that will address an additional 55% of the State's diesel inventory. The new rules treat: 1) on-road fleets under private ownership; 2) off-road mobile sources; 3) harbor craft retrofits and accelerated retirement; 4) stationary agricultural engines; and 5) off-road agricultural mobile sources. For each rule, the guiding principle is 85% emissions and risk reduction by 2020. Please see Attachment 3 for a listing of the approved and future measures under this effort and the corresponding estimated emission reductions for the approved measures. Incentive

Ms. Nettie Sabelhaus
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funds such as the Carl Moyer program and Clean School Bus program are vitally important to our overall diesel clean up strategy. These funds assist ARB and local air districts in reaching diesel engines that are less amenable to regulation (approximately 5-10% of the inventory). The incentive funds also spur early compliance for regulated engines, accelerating the progress toward cleaner air and greater public health protection. Finally, the incentive dollars enable the development of leading edge technologies.

Third, ARB is working with Cal/EPA and the Business, Transportation & Housing Agency on a comprehensive Goods Movement Action Plan. This two-part plan identifies statewide infrastructure needs and the air pollution control strategies needed to abate the large and growing public health impact of the emissions from shipping, rail transport, cargo handling and on-highway trucking related to goods movement. A second draft of the emissions control portion of the plan will be before the ARB at its April 20-21, 2006 meeting in Long Beach. More information is provided on this plan in my responses below.

Fourth, ARB is a member of the Governor's Climate Action Team and is collaborating on the implementation plan to reach the Governor's greenhouse gas emission reduction targets as announced in June 2005:

- 1) 2000 levels by 2010 (an 11% reduction from "business as usual");
- 2) 1990 levels by 2020 (a 25% reduction from business as usual); and
- 3) 80% below 1990 levels by 2050.

In September of 2004, ARB took a critical step toward reducing carbon dioxide emissions in California by adopting the greenhouse gas emission standards for motor vehicles. By 2020, ARB's vehicle standards will make the new car fleet 30% lower emitting on average than it otherwise would have been. This strategy will provide more than 20% of the Governor's statewide 2020 goal for greenhouse gas reductions. ARB and the State Attorney General's Office are currently defending this regulation in state and federal court.

3. What is the status of the state's compliance with the State Implementation Plan? What needs to be done to achieve attainment?

California is in compliance with the most recent State Implementation Plan for the South Coast, adopted in 2003, which aimed at achieving the federal 0.12 part per million 1-hour ozone standard in 2010 (a standard which has since been revoked by the U.S. Environmental Protection Agency). The 2003 SIP's annual emission reduction targets for 2003 and 2004 were met. Rules adopted by ARB in 2005 and those scheduled for

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 Page 4

2006 should provide the remaining reductions required to meet the 109 tons per day target committed to for the 2003-2006 timeframe. Likewise, the last component of the Bureau of Automotive Repair's smog check measure is expected to be in place in 2006.

With respect to attaining the new, more stringent federal standards for ozone and particulate matter, the ARB and local districts are just beginning the technical assessment of how to reach those levels. The "carrying capacity" of each non-attainment district has yet to be determined. However, given that the new federal standards are approximately 30% more stringent than the standards they replaced, a significant amount of additional emission control will be needed. Where will those reductions come from? California needs to continue its efforts to clean up all the existing combustion sources in our economy (both vehicular and stationary), further control the evaporation of solvents, paints, consumer products and fuels into the atmosphere, and deal effectively with sources that have been relatively under-regulated, in particular national and international mobile sources (locomotives, marine vessels, aircraft and other categories). This is an enormous challenge, but I am confident ARB can meet the challenge.

Air Quality/International Goods Movement

- 1. Air pollution from "international goods movement" is an issue of increasing concern. According to data collected by your agency and BT&H there are roughly 750 deaths per year from air emissions today and the mortality rate is increasing. In addition, there are thousands of increased incidences of respiratory illnesses and other adverse health effects. At the same time, goods movement provides jobs and increased economic benefits to the state.**

What actions do you support to address the health effects of air pollution from the movement of goods, especially in low-income neighborhoods like West Oakland, San Pedro, and Wilmington?

The emissions related to goods movement raise serious public health issues. These substantial and growing emissions disproportionately impact communities closest to the intermodal facilities. We absolutely need to reverse that emissions trend and deal effectively with localized hotspots. It is a regional problem too. California will not attain state and federal air quality standards unless we deal effectively with this issue. As Chair of ARB, I will give the very best advice I can to Cal/EPA, the Business, Transportation & Housing Agency, the Governor and the Legislature about how to solve this air quality problem. I am also committed to using ARB's regulatory powers to the fullest extent to achieve the necessary emission reductions. I am pleased that my predecessors have already moved in that direction by adopting regulations for cargo

Ms. Nettie Sabelhaus
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handling equipment, marine auxiliary engines, and cruise ship incineration. ARB has also imposed clean fuel requirements for captive harbor craft.

We have some unique challenges before us. The State's authority to regulate locomotives and vessels is significantly limited by federal and international laws. That means that in addition to using our regulatory authority, we must encourage effective action by the federal government and elicit the cooperation of port officials, ship owners, terminal operators and the railroads. As Chair, I will work with these groups.

Do you believe that those who generate the emissions should bear the costs of emissions reductions, or should those costs be paid through bonds and general taxpayer funds?

California has historically followed the polluter-pays principle in its air quality management program, but there are significant exceptions. The State has chosen to subsidize accelerated, voluntary turn-over of diesel engines through the Carl Moyer program, to help the agriculture industry pay for compliance with new regulations, and to lessen the burden of Smog Check program repairs on low income drivers. The federal government has done the same thing, but to a much lesser degree. I think a combination of regulations and incentives is the right approach and I would evaluate each specific funding proposal on a case-by-case basis.

Should the ARB be the lead agency for determinations related to air quality, public health protection, and goods movement, or should the BT&H Agency have equal standing in those determinations?

Cal/EPA, ARB and BT&H are collaborating on the Administration's Goods Movement Action Plan because the issues are so intertwined. Changes to the infrastructure system have air quality effects (both positive and negative). Likewise, choices about funding mechanisms can create useful opportunities in the environmental sector. I believe that it is vitally important to keep that coordination and close relationship going. It is equally important that each department bring its respective expertise to bear. For air quality and public health protection, ARB is the acknowledged expert and will have great influence over final determinations related to those aspects. But we are committed to operating within a consistent framework and vision about what the Administration is trying to achieve for the whole State of California as a whole.

Ms. Nettie Sabelhaus
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2. Last year, the ARB negotiated and entered into a Memorandum of Understanding (MOU) with the railroad industry to reduce emissions from rail activities. This MOU, and the process by which it was entered into, is strongly opposed by many air districts and environmental and public health groups because it was adopted without public hearings and the result is perceived as being weaker than what the ARB could do in regulation.

Do you believe that the process by which the MOU was entered into excluded meaningful public input? What, if any, changes do you advocate to improve both the process by which the MOU was adopted and the MOU itself?

I agree there were process errors in the development of last year's MOU, even though staff was following established ARB practice. The world has changed since the previous railroad MOU was negotiated in 1998. There is a much greater expectation of public involvement in these critical issues, which I think is completely justified. For that reason, I am very glad that my predecessor and my new colleagues officially changed the process by which future MOUs will be negotiated. From now on, the Board and the general public will be notified whenever MOU negotiations are under consideration by the staff and will be given a reasonable opportunity to comment. In addition, no future MOU shall take effect until it is ratified by the Board at a noticed public hearing.

Air Quality/Infrastructure Investments

1. Both the Governor and Legislature are engaged in efforts to make major new investments in CA's transportation infrastructure. According to the Legislative Analyst's Office, the Administration's Transportation/Air Quality Bond relies on \$14 billion in revenue bonds for state highways. Very little in the bond appears specifically earmarked for air quality improvement.

Given the direct linkage between air pollution and transition, should conditions be placed on future transportation expenditures in order to ensure compliance with the state and federal clean air acts and the Governor's air pollution reductions objectives? If so, what specific conditions would you recommend?

Federal law requires that transportation projects and transportation expenditures "conform" to the State Implementation Plan for attaining federal air quality standards. That hasn't changed and those criteria ensure that any infrastructure investments will comport with air quality management objectives. The California Environmental Quality Act offers additional protection.

Ms. Nettie Sabelhaus
 March 6, 2006
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2. **One of the most serious impacts from new infrastructure construction is the diesel emissions that fall on neighborhoods surrounding project construction sites. Some have advocated so-called "clean construction standards" for new construction projects. Do you support these standards? What actions, if any, will you take to ensure clean construction standards are used in new infrastructure investments?**

I think that clean construction standards are generally a good idea and I am somewhat surprised that more localities haven't made use of them. But it is important to note that unless the total inventory of clean construction equipment is expanded, such requirements merely move the equipment from one location to another and may actually hurt the locality from which the cleaner equipment is removed. ARB staff is currently working on a diesel emission control measure for all construction equipment in the State that will come before the Board at the end of 2006. That may be a more effective way of tackling the problem on a statewide basis.

Climate Change/Greenhouse Gas Emissions Reductions

1. **Last May, the Governor issued an executive order (EO S-30-05) requiring the reduction of greenhouse gases from state sources. Last month, the Administration issued a report identifying global warming as a serious threat to the state and advocating a series of measures to reduce greenhouse gas emissions.**

Among other things, the report recommends the imposition of a "transportation public goods charge" to fund programs to reduce fossil fuel dependence, and a more comprehensive approach to research and development of technologies and programs to reduce greenhouse gas emissions.

Do you support the recommendations made in the CAL-EPA report? If so, what steps will you take to implement the recommendations? Do you support the imposition of a "transportation public goods charge" as recommended in the report?

Although ARB is a member of the Administration's Climate Action Team, I wasn't personally involved in development of the draft report (which was largely finished before my appointment) and prefer not to comment on its recommendations until I've come up to speed in my new position. However, I will say that as ARB Chair I am fully committed to protecting the greenhouse gas emission standards that ARB has already adopted for motor vehicles, which deliver the lion's share of target climate change reductions in the

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2020 timeframe, and which we are currently defending against legal challenge with the help of the Attorney General's Office. Also, I am fully committed to working on the specific greenhouse gas strategies assigned to the Air Resource Board in the draft report. I will leave it to the Legislature and other members of the Administration to debate the timing and appropriateness of a public goods charge for transportation fuels.

2. **Despite the fact that current law expressly provides that CAL-EPA and its member agencies are the lead in matters pertaining to GHG reductions, other agencies in state government (e.g. the Public Utilities Commission, Energy commission) have undertaken programs to assess or reduce climate emissions.**

Do you believe that the tracking and regulation of GHG emissions should be done by one agency, or that several separate agencies should adopt programs to reduce GHG emissions?

Every state agency with something to contribute needs to be working on greenhouse gas emission reductions because the entire planet and our quality of life are at stake. That said, we need to coordinate effectively and not duplicate one another's efforts.

Air Quality/Environmental Justice

Environmental justice increasingly is an issue for low-income and minority communities. These communities often suffer from increased pollution burdens due to their locations and the industrial activities, truck traffic, or other activities that take place adjacent to them.

What steps do you support to reduce air pollution impacts in EJ communities? What specific assessment and mitigation tools does the ARB use to ensure that EJ communities do not continue to suffer disproportionately from air pollution?

I support every step that is necessary to protect public health and if I could implement them all tomorrow I would. I have already expressed my views to ARB staff that vulnerable and heavily burdened populations deserve our focused attention and our most strenuous efforts because they are clearly suffering the most. I intend to make that a constraint refrain throughout my entire chairmanship. The difficulty is that we can't fix everything at once and need to prioritize our efforts and resources to get the maximum return. ARB is currently funding a \$700,000 research study to get a better handle on disproportionate impacts. ARB has also dispatched special monitoring teams to individual communities to pinpoint the worst offenders (pollutants and source categories) so we can systematically attack the serious public health problems these

Ms. Nettie Sabelhaus
March 6, 2006
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people are facing. There are no easy answers but you have my personal commitment that we will not cease until the job is done.

I hope the responses provided are adequate and sufficiently meet your needs. Should you have any questions, please feel free to contract me at 916-322-5840.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert A. Sawyer", followed by a long horizontal flourish.

Robert Sawyer, PhD
Chair

Cc: Honorable Don Perata, Chair
Senate Rules Committee
State Capitol, Room 205
Sacramento, California 95814

Honorable Jim Battin, Vice Chair
Senate Rules Committee
State Capitol, Room 3067
Sacramento, California 95814

Honorable Roy Ashburn
Senate Rules Committee
State Capitol, Room 5094
Sacramento, California 95814

Honorable Debra Bowen
Senate Rules Committee
State Capitol, Room 4040
Sacramento, California 95814

Honorable Gilbert Cedillo
Senate Rules Committee
State Capitol, Room 5100
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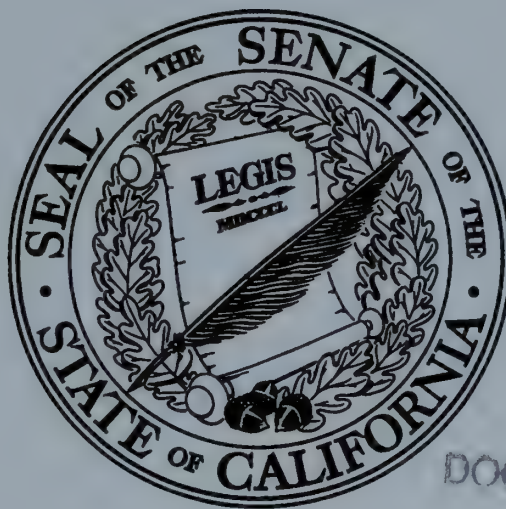
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APPEARANCESMEMBERS PRESENT

SENATOR DON PERATA, Chair

SENATOR JIM BATTIN, Vice Chair

SENATOR ROY ASHBURN

SENATOR DEBRA BOWEN

SENATOR GILBERT CEDILLO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR BATTIN

CHRIS BURNS, Consultant to SENATOR ASHBURN

EVAN GOLDBERG, Consultant to DEBRA BOWEN

DAN SAVAGE, Consultant to SENATOR CEDILLO

ALSO PRESENT

JOHN A. BOHN, Member
Public Utilities Commission

SENATOR MIKE MACHADO

D.J. SMITH
PacifiCorp, CLECA, Constellation Energy

JOE LYONS
California Manufacturers & Technology Association

KRIS ROSA
Silicon Valley Leadership Group

CHRIS FRAHM
Hatch & Parent Law Firm

1 PAUL BAUER
Golden State Water Company

2
3 JACK HAWKS
California Water Association

4 DOMINIC F. DiMARE, Vice President
5 Government Relations
California Chamber of Commerce

6
7 LENNY GOLDBERG
TURN

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The following table shows the results of the analysis of variance for the effect of the treatment on the response variable. The results are presented in the form of a table with the following columns: Source of Variation, Sum of Squares, Degrees of Freedom, Mean Square, and F-value. The results are as follows:

Source of Variation	Sum of Squares	Degrees of Freedom	Mean Square	F-value
Treatment	10.00	1	10.00	10.00
Error	90.00	9	10.00	
Total	100.00	10		

P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN PERATA: We have a quorum.

Senator Machado, would you like to introduce your guest?

SENATOR MACHADO: Thank you, Mr. Chairman.

I'd like to introduce to you and the Committee John Bohn, who is a candidate for the PUC Commission.

John has distinguished himself in business, particularly in the areas of finance. He's advised U.S. and foreign enterprises, and most recently has provided management and capital services to small businesses. He comes with an extensive background in private and public finance, and he has served as President over the Moody's Investors Service.

I believe John brings a unique blend of private sector experience, understanding of regulated industries, and I also believe he has the understanding of the need for -- that regulations are necessary to protect the public, but also regulations should be tempered to encourage responsible investment in our economy.

He has a sterling academic background and --

CHAIRMAN PERATA: That means he went to Stanford.

[Laughter.]

SENATOR MACHADO: There was a reason why I voted for you for leader.

A resident of Oakland, I present to you John Bohn. I think he's an excellent candidate and will serve California's citizens well.

1 CHAIRMAN PERATA: Thank you, Senator.

2 Mr. Bohn, welcome.

3 MR. BOHN: Thank you, Mr. Chairman, and thank
4 you, Senator Machado.

5 If I could make just one or two brief
6 introductory remarks, is that in order?

7 CHAIRMAN PERATA: Absolutely.

8 MR. BOHN: Thank you.

9 I'm very pleased and honored to appear before you
10 here today to seek your confirmation as member of the California
11 Public Utilities Commission.

12 As Senator Machado said, my background is in
13 business with particular reference to finance, management, and
14 international economic development. Though I've spent
15 considerable time in public service at the federal level, I'm
16 learning the businesses of the Commission as rapidly as I can.
17 In fairness, I don't yet claim to be an expert.

18 I bring no particular ideological or political
19 bias to the job, other than to focus on what works, what is
20 fair, and what strikes the appropriate balance among the cost to
21 the ratepayers, consumer protection in a rapidly changing
22 marketplace, and providing reliable energy, cost-effective
23 communication service, and water service to our constituents.

24 My overall objective is to promote the public
25 interest as best and as fairly as I can based upon my
26 examination of the facts and the evidence.

27 I believe markets engender innovation and provide
28 discipline, but they are not sufficient by themselves to protect

1 consumers and the public from abuse, particularly during times
2 of rapid change. Where markets don't work, it is the
3 Commission's job to step in and protect consumers. My job as a
4 Commissioner, as I see it, is to provide that supervision over
5 the utilities and industries that fall under our jurisdiction.

6 I believe my knowledge of how business works,
7 coupled with my experience in government, qualifies me to
8 perform the job of Commissioner.

9 In my brief time as Commissioner, there are
10 several themes that I have focused on. First, Commission
11 effectiveness. That's in the area of operations of the
12 Commission itself: the complexity of the processes and the
13 inordinate time it takes to make a decision. I believe we can
14 improve the process, become more proactive, and make all
15 deliberate speed our goal.

16 I think we can improve the climate for investment
17 in various aspects of our infrastructure. Our discussions
18 should provide predictable outcomes and clear guidance, and
19 should, to the extent possible, be consistent and transparent.

20 We must show that we understand what it takes for
21 the various parties to generate financing needed to carry out
22 the various business models, and to provide the important
23 utility services under our jurisdiction. To do otherwise
24 deprives the consumers of the benefit of that investment.
25 California cannot afford a deteriorating infrastructure in
26 water, in telecommunications, or in energy.

27 Another area of concentration has been the
28 cost-effective environmental reflection in our policies. We

1 must focus on cost effective policies that provide the greatest
2 amount of environmental benefit at the least possible cost.
3 While we push toward renewables and other clean energy sources
4 and recognize the problem of greenhouse gases, we must be clear
5 as to the cost burden we place on various parties and on
6 business and strive to ensure our expenditures are as reasonable
7 as possible. In doing so, we must not be shy about asserting
8 our jurisdiction. It is our responsibility.

9 In the area of consumer protection, times of
10 transition and rapid change put burdens on consumers as well as
11 providers. Our rules must balance consumer interest and
12 protection with innovation and competition. We must enforce our
13 rules, educate our constituents, and manage and monitor
14 corporate behavior for the overall benefit of the consumer.
15 This requires the PUC's active and forward looking engagement,
16 not just policy discussion. We must insist on public
17 accountability.

18 Ours is a diverse state. Therein lies its
19 strength, if we have wit enough to capture it. There are
20 communication issues of language which must be addressed, and we
21 must personally engage senior management of the companies that
22 provide these services, and engage them in the heightened
23 expectations of customer service and consumer protection. This
24 includes promoting the engagement of small business in the
25 utility process.

26 Small business is the backbone of our economy,
27 and we must make their problems and their opportunities and
28 their contributions as part of our concern. We've done three

1 small business expos over the course of the last three months.
2 I've had the pleasure of attending and managing those. We've
3 had one -- we had one in Oakland, in San Diego, and in
4 Bakersfield. We're having others scheduled.

5 And I must say, it's a great delight to someone
6 who has spent a lot of time working with small business to see
7 it actually work, to see deals getting made that would not
8 otherwise get done, to see small businesses have an opportunity
9 to engage with the large utilities and even their prime
10 contractors.

11 We brought together more than 500 businesses in
12 those three sessions, each session to standing room only. Both
13 the utilities find that they have been introduced to new
14 opportunities, and the small business people are grateful that
15 somebody takes the time to listen.

16 As a Commissioner, I will work hard to implement
17 the Energy Action Plan, the Water Plan for which, I guess, I am
18 largely responsible, oversee the full implementation of our
19 Consumer Bill of Rights and new enforcement and education
20 regime, again for which I guess I'm one of the designated
21 Commissioners, and the Commission's effort to bring the
22 advantages of advanced communication service and broadband
23 technologies to all of California. Not just focusing on
24 availability, but on issues of access, and affordability, and
25 computer literacy.

26 I want to thank you for the opportunity to speak
27 with the Committee, and I look forward to questions. Thank you,
28 Mr. Chairman.

1 CHAIRMAN PERATA: Thank you, Mr. Commissioner.

2 Do you have family here you'd like to introduce?

3 MR. BOHN: Thank you, Mr. Chairman, I would.

4 I'd like to introduce first my grandson, Ethan.

5 CHAIRMAN PERATA: Welcome, Ethan.

6 MR. BOHN: And my wife Barbara sitting next to
7 him. Thank you.

8 CHAIRMAN PERATA: Welcome to both of you.

9 Questions? Senator Ashburn.

10 SENATOR ASHBURN: It's very nice to have you
11 here. You've been on the Commission since last May, and you
12 touched in your remarks very briefly about the structure of the
13 PUC administration, the organization, the time that's consumed
14 to turn out decisions.

15 I wonder if you could expand on that, because I
16 think it's an area of extraordinary concern, that this is, the
17 PUC is in fact a very clumsy and cumbersome bureaucracy, in the
18 worst sense of the term.

19 And I'm interested to to know if you feel that
20 you can have a real impact on changing that?

21 MR. BOHN: I think I can. And I think to some
22 extent I already have.

23 Sometimes it's asking the right question, and
24 sometimes it's asking why not.

25 My first experience there for the first six weeks
26 involved an enormous amount of time over a whole series of items
27 which had almost no either financial or policy impact. The
28 process needs to be revisited, and we are in the process of

1 revisiting it in terms of case management, in terms of
2 delegation of responsibility.

3 One of the things that I've done in cases that
4 are assigned to me is that I insist that there be a settlement
5 conference prior to the filing of briefs. It's a little bit
6 like looking for stipulated facts in a lawsuit. We get long,
7 long opinions, and long, long hearings on issues which are of
8 great concern, but at the end of some of those hearings, we find
9 that the disagreement is on very few issues.

10 I'd rather spend the Commission's time, and
11 indeed I'd rather focus the time and the money of both the
12 utilities and the interveners on issues that are important.

13 So far, we've been able to hammer out settlements
14 in part of the PG&E case we had. We were able to settle a large
15 part of another utility case, a merger case where we had all the
16 parties simply agree. Instead of going on and on, and
17 scheduling hearings, we were able simply to get the issues up,
18 get them addressed, focus on them with the experts, and get on
19 about our business.

20 That's the kind of thing that I think makes a
21 difference.

22 A third thing, and it may seem trivial, it's
23 important for the Commissioners, I think, to take charge of the
24 cases that they are assigned to. I think it's important. I try
25 very hard cases that are assigned to me; I do the Scoping Memo,
26 I talk with the judge, again insist on settlement proceedings.

27 And quite honestly, once people expect the
28 timeline that we set to be met, as opposed to continually put

1 off, people by and large do it.

2 Those are three simple examples. I think
3 there're other areas, and I know the executive director and
4 others are looking at other streamlining affairs, including
5 delegation, including citation processes as opposed to the more
6 cumbersome hearing processes.

7 We need to be careful in the settlement area, and
8 we need to be careful in too much expeditious activity for the
9 simple reason that we do have people who want to be heard, and
10 we have to accommodate to some extent the fact that they can't
11 be available on the spur of the moment.

12 That said, I think we can do a lot better and
13 produce timely decisions in a responsible fashion.

14 SENATOR ASHBURN: How do you view your
15 responsibility in securing an adequate energy supply for
16 California?

17 MR. BOHN: I think that may be the most important
18 issue that we're dealing with right now. We're kind of betwixt
19 and between. We have an almost deregulated-almost regulated
20 sector that I think is very difficult for certainly the
21 investment community to figure out.

22 I fully support the emphasis on efficiency, the
23 emphasis on renewables, and all of those things. But we need
24 to provide the kind of certainty that permits people to lend
25 money to build power plants. We are going to have to put some
26 additional steel in the ground. We're going to need to deal
27 with the reality of LNG and natural gas. And we need to get on
28 with it.

1 I think one of the issues that I try to deal with
2 is to be as precise and as clear as I can be, and try to get the
3 Commission to do the same thing, so that we leave the littlest
4 possible part of uncertainty.

5 I know the investment community pretty well.
6 When I talk to them, their concern is first and foremost
7 regulatory uncertainty. What is the PUC going to do at this
8 point.

9 And I believe now that the Commission is in
10 pretty solid agreement, regardless of the part of the spectrum
11 in which we find ourselves, pretty solid agreement that that's
12 critical. And I think you're going to get much clearer
13 policies. I think you're going to get a much clearer focus on
14 that going forward.

15 SENATOR ASHBURN: One other issue that I would
16 raise, and that's if we produce electricity and other power
17 sources, the delivery of those sources and the distribution
18 through an inadequate grid, an insufficient capacity.

19 Tehachapi -- and I appreciate your efforts in
20 coming to Bakersfield -- is the world's largest wind producer.
21 And the capacity exists, in fact the investment interest exists,
22 to double the production of wind power, wind generated
23 electricity, if only for the installation of adequate lines to
24 carry the electricity that's produced.

25 For those who are concerned about other sources
26 of power production, we're talking about a totally renewable,
27 totally environmentally friendly, unless you have to stand in
28 those winds for too long a period of time. And yet, we can't

1 seem to get the leadership from the utilities and the Public
2 Utilities Commission to get the lines installed so we can
3 generate and distribute more power.

4 I mean, what is wrong here?

5 MR. BOHN: Well, if I can comment, and again, I'm
6 not sure I'm privy to of all of the -- all of what goes on, but
7 let me just make an observation.

8 We have created at the Commission an inordinately
9 complex procurement process. We've actually got a couple of
10 renewables under contract, but it's been an agonizing process.

11 My sense is that part of it is a jurisdictional
12 issue. I think part of it is the fact that this -- we have
13 inflicted, if I can use that word, on the utilities and on
14 others a very complex process to procure. I think we need to
15 revisit that. I think we need to clean that up so that people
16 can in fact make a decision.

17 My belief is, there's plenty of money out there
18 to make that work. What's standing in the way is the
19 uncertainties of what we might do and of our procurement
20 process.

21 SENATOR ASHBURN: I just want to encourage you.
22 I like the things you've said.

23 I had the opportunity to visit with Susan Kennedy
24 upon her departure from the PUC, and she expressed total
25 frustration with the bureaucracy of the agency, the slowness to
26 act, the inability to deal with complex issues, not among the
27 Commissioners, who are fine people like yourself, but the
28 disconnect between outstanding Commissioners and a governmental

1 agency that doesn't seem to respond to anybody.

2 So, you know, I'm expecting you to make it work.

3 MR. BOHN: I will certainly do my best, Senator.

4 SENATOR ASHBURN: I appreciate it.

5 MR. BOHN: I've dealt with government
6 bureaucracies before, so maybe that gives me a little bit of a
7 leg up.

8 CHAIRMAN PERATA: Let me know how that works out.

9 [Laughter.]

10 MR. BOHN: I will.

11 CHAIRMAN PERATA: Senator Bowen.

12 SENATOR BOWEN: Oh, just a question here and
13 there.

14 Thank you for coming into my office. I enjoyed
15 our conversation.

16 Just to make it clear to the public, I declined
17 to have a discussion about specifics because I feel strongly
18 that these conversations need to be had in the public, in the
19 open.

20 And I do want to talk to you about several
21 different areas. And I'm not going to start with the Consumer
22 Bill of Rights, telecommunications, because it's actually, of
23 the various things that you deal with, probably not the most
24 profound, but it's important to many people on a daily basis.

25 I'd like to start with some questions about the
26 merger hearings with the Verizon-MCI merger. You noted in your
27 answers to the Committee's questions that you are committed to
28 transparency and openness, but you were one of the Commissioners

1 who broke with PUC tradition and voted to approve the
2 Verizon-MCI merger without evidentiary hearings, meaning that
3 groups like TURN and the Office of Ratepayer Advocates did not
4 have an opportunity to discuss whether the merger was in the
5 public interest.

6 What was your thinking about the reasoning?
7 What's your reasoning for dispensing with the evidentiary
8 hearing that would have provided a public process for
9 determining whether or not that merger, and the SBC-PacBell
10 merger, was in the public interest?

11 MR. BOHN: Well, the dispensing of evidentiary
12 hearings, my impression was and I was so advised, that the
13 consumer groups had plenty of time and space to make their views
14 heard.

15 Evidentiary hearings as such are a subset, as you
16 know, of other ways in which we gather information.

17 My sense was that, number one, as a general rule
18 I do believe very much in a transparent hearing process, and the
19 transparent deliberation process. And I believe in that for two
20 reasons. The first is, the public has a right to know. But
21 perhaps more importantly, the public, in order for them to
22 accept what the Commission does, needs to be able to see the
23 reasoning process that the Commission went through to get
24 there.

25 This is not a black-box business. This is a
26 business where in many cases there are no right answers. This
27 is a place where it isn't right or wrong. It is a combination
28 and a judgmental issue.

1 It was my belief that given everything that had
2 gone on, the information that had been obtained, and our
3 particular role in it, that we didn't need those specific
4 hearings.

5 We have, as you know, in-house the Division of
6 Ratepayer Advocates. We get a lot of information. I didn't
7 realize there was any comment that those interested parties did
8 not have an opportunity to express views. My recollection was
9 that it was focused on the particular precise evidentiary
10 hearing issue.

11 SENATOR BOWEN: I think if I've left the
12 impression that it denied people any opportunity to present
13 their views, let me correct that.

14 I think the question is, the development of an
15 evidentiary record which would --

16 CHAIRMAN PERATA: Senator, excuse me. Is that
17 microphone on?

18 SENATOR BOWEN: It is. And if you're having
19 trouble hearing me, we'll reboot it.

20 CHAIRMAN PERATA: There you go. Much better.

21 SENATOR BOWEN: Turning things on and off is
22 frequently the most useful thing we can do with technology.

23 But there was a concern about that, as there was
24 with the implementation of Section 854 of the Public Utilities
25 Code, which requires the PUC to equitably allocate the benefits
26 of a merger between customers and shareholders so that customers
27 get no less than 50 percent of the benefits. That was done with
28 the GTE-Verizon merger, and it was also done with the

1 SBC-PacBell merger, but it was not done in the Verizon-MCI
2 merger or the SBC-AT&T merger.

3 What was the rationale for that? And why would
4 you miss the opportunity to return some of the benefit directly
5 to customers?

6 MR. BOHN: Well, I came in, number one, to that
7 whole discussion after a lot of water had flowed under the
8 bridge.

9 At the time it came across my purview, the issue
10 was whether or not, given all that had happened, that we were
11 within the jurisdiction -- that we were in the position of being
12 able to assess all of these issues without going through that
13 long and laborious hearing -- hearing process.

14 I think the majority of the Commission felt that
15 nothing substantial would be gained by that substantial delay,
16 given where the merger was in the rest of the country.

17 I appreciate there was a fair amount of criticism
18 of that process. I know one of my colleagues would have that
19 section apply on every given case.

20 I think our view was that the issues were clear
21 enough, and that the substance of it, we were satisfied that the
22 benefits were as described.

23 SENATOR BOWEN: Is that an answer to the question
24 about the allocation of the benefits between shareholders and
25 customers?

26 MR. BOHN: Well, I guess I'm not -- I can't
27 recall from memory what that decision -- what that decision
28 did.

1 The question of allocation of benefits between
2 shareholders and customers is always a tricky one.

3 My recollection of it is that we did in fact
4 deliberate that, and the conclusion was -- was as was given. I
5 cannot frankly recall --

6 SENATOR BOWEN: Actually the conclusion was that
7 you exempted that merger from meeting that standard.

8 MR. BOHN: Correct. We did exempt it.

9 SENATOR BOWEN: My question is why? Why
10 shouldn't consumers get 50 percent of the benefit? Or some
11 percentage, if you didn't like the 50 percent.

12 MR. BOHN: I think -- I think there were issues
13 in that where some of those issues had been settled. That's my
14 recollection, that there were some consumer benefits.

15 I can't, again, recall from memory what those
16 consumer benefits were. I think, as I recall it, the issue was,
17 is that the process that is necessary to allocate consumer
18 benefits and shareholder benefits. And I think the view was,
19 and it was my view, that we could do it without that.

20 SENATOR BOWEN: All right. That's consistent
21 with what you stated with the mergers, which is that it's a
22 competitive world out there. It's a tough competitive
23 market.

24 But my question is that given that we have two
25 telecommunication companies in California that have over 90
26 percent of the market for local telecommunications, do you
27 believe that's a functioning competitive market, and that having
28 two players with 90 percent of the market will enhance

1 competition?

2 MR. BOHN: That's -- let me answer that question
3 two different ways, or maybe three different ways.

4 The first is, they will be competitive, one to
5 the other, to some extent. But we're in an era now that the
6 competition is not just vertical, as it has been in the past.
7 That is to say, it's not just between two telephone companies.
8 And if it were just two telephone companies, I would worry a
9 great deal more.

10 What you're seeing are other competitors in the
11 telecomm business.

12 SENATOR BOWEN: That's where that less than 10
13 percent is, the other competitors.

14 MR. BOHN: Well, it's probably less than 10
15 percent partly out of history. You've seen the industry change
16 dramatically, and you've seen the change from the evolutionary
17 process of landlines and telephones, and now we have wireless
18 and all of those things. So, it doesn't surprise me that the
19 inertial weight of history would give you those statistics.

20 My -- my best judgment would be that a year or
21 two from now, those numbers will be different. Once you had --
22 once cable gets into the telephony business, once the
23 voice-over-Internet protocols get started, once you begin to get
24 other kinds of technology, that that competitive environment
25 will look back on this point as comparatively easy to figure
26 out. I think it's going to get a lot more complicated.

27 SENATOR BOWEN: How do you deal with competition
28 in areas, and both Mr. Battin and Mr. Ashburn have more of this

1 kind of territory than I do, where there isn't any competition
2 because there's no cable provider that goes to many of those
3 places? People have only a telephone provider, or they may for
4 television have satellite, but they don't have a cable provider.
5 They don't have broadband. The voice-over-Internet protocol is
6 not a possibility because you have to have broadband.

7 So, how do we get competition in rural parts of
8 California and in urban areas that are not served by more than
9 one provider of either cable or broadband?

10 MR. BOHN: I don't think you're going to get it
11 in the time that we need to get it strictly through the
12 competition. I think this is one of those cases where you have
13 to make a policy decision. And the policy decision, to my mind,
14 is a fairly simple one: Is it better for Californians to be
15 wired and therefore have an voice into and a connection with the
16 rest of the world, regardless of where they live? And I think
17 that decision's been made.

18 I think you're going to see, to the extent we can
19 control it, and we can't control a lot of these things. We've
20 been preempted -- therein lies another whole discussion --

21 SENATOR BOWEN: And I'm going to get to that one.

22 MR. BOHN: We have undertaken studies already as
23 to how we provide, either through incentives or through
24 conditional approvals or otherwise, to deal with exactly the
25 kinds of issues you're talking about.

26 When we did -- when we did the merger, one of the
27 mergers -- I can't remember whether it was Verizon or SBC -- one
28 of the things that I insisted on was to try to get a fund out of

1 that that would bring broadband into a number of these areas.
2 We put that in there. We put that in there along with a request
3 that the fund that was created deal with things like
4 telemedicine, to create community centers where there is a
5 connection. All of those things are steps in that direction.

6 Competition between two carriers is not going to
7 get you there in the time that you want to, I think.

8 SENATOR BOWEN: Let me shift from the past to
9 the future.

10 One of the trends that we're seeing with, as we
11 start to see more and more kinds of services, is a move to take
12 plain old telephone service, and hike the rate, and then offer a
13 significantly lower rate to customers who take a bundle of
14 services.

15 That, in my view, gives the telephone companies
16 the ability to manipulate prices as a means of forcing customers
17 to shift to more expensive bundles, or to shift to using the
18 same carrier for other services that they use for their plain
19 old telephone service.

20 This is actually the same discussion that's going
21 on right now at the federal level with the bundling of cable
22 channels, where people -- you know, I have to have all three
23 golf channels if I want both C-Span channels.

24 And conversely, Senator Perata has to have both
25 C-Span channels if he wants those three golf channels.

26 How do you expect to deal with this question of
27 bundling and the impact, in particular on our rural customers
28 and our seniors, who are must less likely to want or need a

1 bundle, but do need plain old telephone service?

2 MR. BOHN: I think the policy that's at work here
3 is really customer choice. I have the same problem that you
4 have with television. I have 300 channels, 20 of which are of
5 any interest to me whatsoever.

6 SENATOR BOWEN: You found 20. I'd like the
7 list.

8 [Laughter.]

9 MR. BOHN: But this is an issue -- we recently
10 required -- that's not technically right.

11 We recently admonished and I think it was Verizon
12 to separate their DSL from their -- from their telephone.

13 That was really kind of a ground-breaking
14 decision because part of the competitive process that you see is
15 the bundling and, indeed, unbundling of various services. You
16 see it in the cell phone business in terms of minutes and
17 coverage.

18 I mean, all of these things are functions of how
19 the market works. It's people struggling and beating up on each
20 other to try to get consumer -- to try to get customer
21 advantage, to try to get market position.

22 Again, going into the rural areas and the
23 underserved areas you have, I think, a choice. And the choice
24 is, the stay out of it and let them fight it out, or again,
25 going back to what I take the policy to be, and that is you
26 nudge them in the right direction.

27 I think we'll do that. My sense is that as we
28 go -- as we go forward into this, we will see more of those

1 kinds of decisions.

2 And our task as a Commission is to try to keep
3 the consuming public up to speed on what the real decisions that
4 they're being asked to make are. And they're not getting
5 easier; they're getting harder, in my judgment. And it'll get
6 tougher when the cable companies come in and offer telephony.

7 It'll be -- I see where one of the phone
8 companies just made a deal with CBS to do television. All of
9 these things will create a myriad of puzzles, and it's up to us
10 to make sure that whatever people want, they at least understand
11 what the choices are.

12 SENATOR BOWEN: I think that my questions really
13 have to do specifically with the fact that you, at the PUC, have
14 the ability and the historical charge to regulate plain old
15 telephone service. And we have historically had a system of
16 funding and charges for that, that means that customers in
17 Volcano don't pay significantly more for a basic telephone line
18 than customers in downtown Los Angeles or downtown San
19 Francisco.

20 But there's a lot of pressure, because it
21 actually -- that's that cost shift. It costs more to serve
22 those rural communities. And we've made a determination that as
23 a policy matter, it's better to provide everyone service, even
24 if it involves some cost shifting.

25 Do you think it's important for us to maintain
26 that in dealing with rural areas and areas where the rate of
27 poverty, or the socio-economics mean that you're likely to see
28 competition there last because there's less money to be made?

1 MR. BOHN: I think -- let me again give you two
2 answers. First to the policy issue.

3 Again, I think the decision has been made in
4 terms of the Legislature and in terms of the Commission that
5 it's important to get communication into these areas.

6 As you move out, and there are real costs to any
7 kind of improvement that need to be met by somebody, the policy
8 decision has been made that rather to take a different and
9 subsidized approach to low-income areas and that kind of area,
10 and not try to force all of the folks into the same mold because
11 it gets very hard to justify some of the things that go on.

12 I think you'll find that we have an additional
13 problem, and that is the wire line carriers are now competing
14 against the cell phone carriers, who we don't regulate. And
15 we're going to have to revisit a lot of that kind of stuff
16 because you've got new players. And we want to make sure that
17 those same kinds of services that were -- if you want subsidized
18 or driven into the rural areas, and driven into the low cost
19 areas -- the low-income areas, that they pay their fair share.
20 And I think that whole area is going to be -- is going to be
21 subject to review.

22 SENATOR BOWEN: Well, that actually leads into
23 one of the next set of questions, which is the PUC's decision to
24 withdraw from the FCC its proceeding dealing with regulation of
25 the VOIP, voice-over-Internet protocol.

26 And of course, Right now we are not collecting
27 anything towards the fund for high cost areas or the 9-1-1 Fund
28 or the Deaf and Disabled Fund from those customers.

1 You just made a reference to spreading those
2 costs that way. How do we do that if we cede all authority,
3 including funding those kinds of services, to the federal
4 government?

5 MR. BOHN: Well, as I think you know, I have
6 never been an advocate of giving up our jurisdiction.

7 SENATOR BOWEN: Were you not one of the
8 votes?

9 MR. BOHN: I was not one of the votes. And I've
10 never been in favor of giving up our jurisdiction for two
11 reasons.

12 One, I've been in the federal government. I know
13 they don't do it very well a lot of the time.

14 Secondly, I think we have a responsibility to
15 fight for what we think our responsibility is. And our
16 responsibility is to the people of California. We may get out
17 voted. The courts may decide against us, but I don't in any
18 circumstance agree that we should just give up our jurisdiction.

19 SENATOR BOWEN: Okay. So, that would go as well,
20 I assume, for liquified natural gas siting decisions, and things
21 like controlling our capacity market on the energy side?

22 Your preference will be -- I don't want to put
23 words in your mouth. But if that's your philosophy, that's what
24 I would expect.

25 MR. BOHN: Yes, and I think that's right.

26 The transmission issue for me seems to be an
27 issue between a couple of California agencies more than it is
28 otherwise.

1 I think the issue for transmission, they have, as
2 you know, preempted a lot of that siting.

3 I guess I would have to say I don't like that.

4 SENATOR BOWEN: I'd like to talk for a minute
5 about the SDG&E and Calpine contract which the PUC recently
6 approved.

7 TURN has objected, saying that approving that
8 power purchase at the time that you did basically gave Calpine a
9 huge amount of leverage and drove up the price to SDG&E
10 customers, and by extension, Edison and PG&E customers, will pay
11 for power.

12 Is that an accurate or valid criticism?

13 MR. BOHN: I don't think it's a valid criticism
14 for again, for two reasons.

15 The first, the decision to approve that power
16 contract had effectively been made a month before the decision
17 was formally approved. That had been before the Commission a
18 couple of times. The essence of the contract had been approved,
19 frankly, a month before.

20 This was in our judgment simply a routine
21 approval of business negotiations. It's not our role on either
22 side of that argument, I would state, to intervene to give
23 anybody competitive advantage. This was a routine thing that
24 had been done. My view was we should get it out.

25 SENATOR BOWEN: Did the Governor have a role in
26 that decision?

27 MR. BOHN: Not to my knowledge. He may have
28 talked to somebody else, but not to me.

1 SENATOR BOWEN: Along the same line, there have
2 been some concerns about the need to expand, and you referenced
3 the capacity for natural gas in this state.

4 One of the concerns is that the PUC is not
5 forcing Southern California Gas and SDG&E through Sempra to
6 bring in the cheapest possible natural gas. That it's allowing
7 Sempra to ship gas to Ohio and points east, rather than
8 requiring a lowest cost option.

9 Your thoughts about that?

10 MR. BOHN: That's an issue that I'm quite
11 honestly, Senator, not familiar with. I know that there are
12 parts of Sempra over which we have no jurisdiction. I don't
13 know what we can do in that.

14 I know there is a lots of activity in Mexico to
15 build LNG terminals. I know there are a series of discussions
16 going on in and around the border to bring natural gas in.

17 Relative to a policy by Sempra to move it one
18 way, and our role in that, I can't give you an answer to that.
19 I just don't know.

20 SENATOR BOWEN: Well, you have the authority to
21 require Sempra to use the lowest cost option, to provide
22 Californians with the least expensive natural gas.

23 You also have a more direct option to require
24 Sempra to expand the capacity of its Kern River line so that it
25 can bring natural gas to California from Wyoming. Or, you can
26 allow Sempra to do whatever it wants to do.

27 But you have an impact on what people will pay
28 for both natural gas and power with whatever you do.

1 MR. BOHN: Let me respond to that again in a
2 couple of ways.

3 First is, the price of natural gas is a function
4 of both a global market and a lot of imbedded structure, as you
5 know from your own experience.

6 Historically, we've had -- in the state of
7 California we've been lucky. We've had a fair amount of natural
8 gas in the state. We've been able to get natural gas from
9 Canada, from other places.

10 The inevitability has happened. Number one,
11 growth in those other places. People have begun now to move --
12 to not just have the pipelines from the fields run to
13 California, but to have the pipelines go in the other direction
14 as well.

15 So as a state, our ability to attract natural gas
16 where our pipes are running less than capacity, and we need more
17 natural gas. That's largely a function of the marketplace.

18 We have a very definite interest in that. And
19 again, I would go back to the LNG issue. This is a global
20 market. Those tankers leave Indonesia, Australia, and places
21 like that, and they could have changed hands a half a dozen
22 times.

23 Part of what we need to do is to balance the
24 source of supply if we are going to be able to have any kind of
25 a predictable marketplace.

26 I will be happy to look into the Sempra thing.
27 I'm just not familiar with that.

28 SENATOR BOWEN: Okay.

1 Finally, let's turn to our favorite topic, the
2 Telecomm Bill of Rights.

3 I am told that last year there were 200,000
4 slamming cases, but only one investigation was opened by the
5 PUC. That to me is indicative of how the PUC has chosen to
6 enforce the law and gives me great pause as to one of the
7 cornerstones of your view with regard to the Telecommunication
8 Bill of Rights, which was to have a strong and effective
9 enforcement of consumer protections.

10 If we are seeing one enforcement action per
11 200,000 cases of wrong-doing, how is that going to police the
12 market?

13 MR. BOHN: If that conduct continues, it won't.

14 The point of what we tried to do in the Bill of
15 Rights, and what I think will be more effective, is to reengage
16 the Commission and the Commission staff in enforcement.

17 We've already begun to do that, actually. We
18 have set out a program to deal with slamming, cramming, all of
19 these various things. We are redoing our data base. We are --
20 we've already extended the hours of complaints.

21 It's an internal, if you want, it's an internal
22 refocus.

23 I would be the first to say I think we have been
24 inadequate in our enforcement in the past. I've sort of
25 inherited, because I've been pushing this enforcement exercise,
26 kind of part of the mantle of oversight on the enforcement
27 process.

28 We're moving in a series of the directions to

1 look at cramming specifically. We have before us right now a
2 staff recommendation that we go into a citation process for
3 slamming. We've never done that. Every slamming case had to go
4 through this long, agonizing exercise. We want to make that --
5 we want to make it crisp; we want to make it shorter; we want to
6 give everybody a chance to at least talk about those rules.

7 But I think I'm confident that you'll see a much
8 more vigorous enforcement, not only that, but across the board.

9 SENATOR BOWEN: The number of cramming cases that
10 were brought last year was zero. And what you did in the
11 Telecommunication Bill of Rights that you passed was change the
12 burden of proof, so that the customer has to prove that the
13 charge wasn't authorized, rather than having the phone company
14 prove a charge was authorized. You eliminated the rule that
15 says that customers can't have a charge added to their phone
16 bill unless there's a PIN number to control the access.

17 How are you going to enforce the cramming rules
18 if the customer has to prove a negative, that the charge wasn't
19 authorized? How does a customer prove that a charge wasn't
20 authorized?

21 MR. BOHN: Actually, Senator, with respect,
22 that's exactly what we did not do.

23 What we did, and I was very much responsible for
24 getting the rules in place, what we did with the cramming rules
25 was to enshrine the proposition as follows: The billing carrier
26 has the obligation to take any disputed charge off the
27 customer's bill if the customer complains to the carrier,
28 period, full stop.

1 That charge does not go back on the bill unless
2 and until that billing carrier can prove that that charge was
3 authorized.

4 The reason we did this is the following. There
5 are two aspects of this. The first aspect-- the first aspect is
6 that under the legislation, if you read the two together, there
7 is the assumption, there is the presumption that it's not
8 authorized, and you have a series of legislative provisions that
9 talk about how the process works. You can go back into the
10 vendor, and all the rest of it.

11 Here's what we have tried to do. What we've
12 tried to do is to align the interests of the billing carrier
13 with that of the consumer. It's very expensive for the billing
14 carrier to dispute all these charges. We want to make sure that
15 the billing carrier is responsible for disciplining their
16 vendors. That is to say, if somebody asked the billing carrier
17 to carry a charge on their telephone bill, the telephone
18 companies, the billing carriers, are going to be very concerned
19 about proving the reliability of those folks and the level of
20 service. It makes it, frankly, a lot easier.

21 We have taken away no complaint provisions to the
22 Commission. We've taken away no complaint proceedings relative
23 to the carriers. We've just made it very simple to align those
24 two things and to challenge any charge. That's what we did.
25 And it was quite a deliberate act to make it both easier and
26 clearer for everybody.

27 SENATOR BOWEN: So, two years from now if someone
28 asks you how many cases have been brought, the numbers are not

1 going to look like that?

2 MR. BOHN: I'm trying to think of how best to
3 answer that.

4 Ideally, I would like to say there will be no
5 complaint cases because people will behave. My belief is that
6 there will be in the short term a lot.

7 We have talked with -- and I personally talked
8 with the chief executives of the telecomm companies, because I
9 would like to engage them in the process of disciplining their
10 organizations.

11 My belief is that we will have a much larger --
12 we're not going to try to deal with the backlog. There's about
13 25,000 complaints in our backlog. We're going to go through and
14 expedite those.

15 What we don't want to do is to spend time looking
16 backwards. What we want to do is to spend the time looking
17 forward. So that as of today, we have a system where complaints
18 come in. We've asked the carriers that we want a report on a
19 monthly basis for complaints that they get. We will keep those
20 records.

21 If it turns out that the carriers are not
22 disciplining the system, then that's grounds for us for
23 sanctions. And you will see, I hope, you will see a curve that
24 goes out about six to nine months, and then crests and starts to
25 come down. If we do it right, maybe we can pull it off in six
26 months.

27 SENATOR BOWEN: One of the things that you just
28 referenced that I read earlier is that one of your goals is to

1 hold corporate leadership personally accountable for the
2 activities of their companies.

3 How does the public know that that's happening if
4 you're making a phone call to the CEO? How does that help the
5 customers who file a complaint?

6 MR. BOHN: It doesn't. What it does, and I don't
7 want to over-emphasize this, but what it does, having been a
8 CEO, you don't always know what your marketing department is
9 doing, you don't always know what your customer services people
10 are doing.

11 What it does is to take away the excuse. This is
12 either a policy or it's not a policy. And if the senior
13 management of the company knows that we are concerned that this
14 is going on, they have a choice. They can either say it's not
15 authorized, or it is authorized.

16 Then they have a new partner, and the new partner
17 is us. My belief is that --

18 SENATOR BOWEN: I don't understand.

19 MR. BOHN: If in fact there is behavior taking
20 place that is abusive, that is misleading for the customer in
21 our determination -- we get the complaints so we hear about
22 it -- then the point of the exercise is not to solve complaints.
23 The point is to prevent bad behavior.

24 SENATOR BOWEN: But what I don't understand is
25 from the customer's side, what difference it makes whether the
26 practice that was abusive was authorized or not authorized.
27 They're in the same position.

28 MR. BOHN: They are. They are in that particular

1 incident. They have been -- let's use your example -- they have
2 been abused or misled, or whatever it is.

3 That needs to be resolved. But if that is
4 resolved in the context of a communication with the management
5 of the organization saying, "This is what went on. Is this an
6 accident? Is this an authorized behavior?" We're going to have
7 that discussion.

8 I actually said in the course of the hearing,
9 we'll have, you know, Complaints of the Week if you want to have
10 them. We can tell stories about this.

11 My basic belief is that we need to engage the
12 senior management of the communications companies on the one
13 hand, and really be very vigorous and consistent, and indeed
14 proactive.

15 Again, the point of all of this exercise is not
16 to solve complaints. It's to prevent the conduct that gives
17 rise to the complaints. That's our goal, and that's the goal
18 that I think is better served by this kind of top-down
19 interaction as well as a reinvigorated complaint process.

20 SENATOR BOWEN: Again, how does the public know
21 that that's what's happening? Or, it doesn't matter to you, and
22 the results are all we need to worry about?

23 MR. BOHN: Well, I guess the answer to that
24 question is, if we have to use that as an explanation for
25 failure, or an explanation for success, all a customer should
26 see is better behavior.

27 The customer is not interested, I don't think, in
28 whether I or any other Commissioner has talked to the head of

1 Cingular, or Verizon, or anybody else.

2 What they're interested in, and what the
3 communities are interested in, in the State of California, is
4 responsive behavior from the carriers. That's what we try to
5 do.

6 SENATOR BOWEN: Just one additional issue,
7 because we could spend all day on the Consumer Bill of Rights,
8 and I know a lot of people don't want to.

9 But I was very disturbed to see the Commission
10 abandon the proposal that requires companies who advertise or
11 market their products in another language to provide contracts
12 to the people who they've marketed in another language. I don't
13 understand why you would say to someone, if you want to
14 translate your marketing materials into Vietnamese, or Korean,
15 or Spanish, that's fine, but you don't have to provide people,
16 who you didn't think you could sell to without doing that, any
17 of the legal back-up that you provide in English.

18 I just don't understand.

19 MR. BOHN: I think this is the most troublesome
20 of all the issues. And it's troublesome for a couple of
21 different reasons.

22 It's troublesome because much of -- I've actually
23 gone out, for example, and sat with the community-based
24 organizations, and gone through the complaint processes with
25 them for a number of hours to try to discern what the major
26 issues are. And I can get into that later.

27 But I came away from that with one impression.
28 That is, much of the conduct that is complained of is complained

1 of by -- is conduct by agents, or alleged agents, who happen to
2 be -- happen to speak Hmong, or happen to speak Spanish, or
3 Chinese, or Vietnamese.

4 This has been brought very vigorously to the
5 attention of the carriers. Indeed, I actually presided over a
6 meeting between the community-based organizations on this
7 language thing and about eight of the carriers' organizations
8 that deal with customer complaints. And the point there was to
9 communicate what it is you get.

10 It would not surprise me that we're now looking
11 at this language issue. We're now looking at this exact thing
12 you're raising. It would not -- we're going to revisit that in
13 the next three months, because that's a troublesome one.

14 I think using the community-based organizations
15 to communicate and to essentially discipline both the complaint
16 process on both sides, I think, will make a difference, and I
17 think will cut down the complaints.

18 SENATOR BOWEN: What do you mean, discipline the
19 complaint process on both sides? I just have no idea what that
20 means.

21 MR. BOHN: Well, let me give you an example.

22 The typical situation is where -- and I'll use
23 Hmong because I didn't realize there were so many Hmong people
24 in and around Fresno until I went down there to talk with them.

25 A complaint by the community-based organization
26 was, we get complaints -- that is, the organization gets
27 complaints -- from our Hmong community. We then screen out the
28 complaints that we think are frivolous or wrong, or whatever it

1 turns out to be. So, the only complaints that we take forward
2 to the complaint process relative to the carrier are those that
3 we think are in fact complaints that warrant serious
4 consideration.

5 Their problem was that the complaint process at
6 the carrier did not recognize their role. They would not allow
7 these intermediaries to speak for the customer. They were
8 concerned, quite legitimately, about issues of privacy, and
9 whose information was being discussed.

10 Once we sat down with the community-based
11 organizations on the one hand and the complaint and customer
12 service people on the other hand from the utilities, it became
13 pretty apparent that we, the PUC, have essentially certified
14 these community-based organizations as being responsible. They
15 are, in fact, our agents to work through this.

16 They discipline out the frivolous calls that
17 otherwise would go to the companies. So, they're saving the
18 company money and time.

19 On the other hand, the companies, if they
20 recognize that these people are intermediaries, can solve a lot
21 of problems a lot faster. We have developed separate, for
22 example, separate telephone lines that these organizations can
23 use to reach senior levels at the telephone companies.

24 SENATOR BOWEN: But the question was about the
25 language of the contracts.

26 MR. BOHN: Yeah, and as I tried to say, part of
27 it is the language or the formal language of the contract. I
28 think we'll probably revisit that. That would be my bet.

1 But I think the issue is really communication.

2 SENATOR BOWEN: So, basically you're saying, or
3 what I'm hearing, is that you think that this discipline method
4 replaces the need to have the contract in the language in which
5 the customer was marketed to?

6 MR. BOHN: I don't want to -- I don't want to
7 take it that far and say it replaces it.

8 What I do want to say --

9 SENATOR BOWEN: It did come out of the Telecomm
10 Bill of Rights. It was in a previous draft.

11 MR. BOHN: Yes, I know that.

12 SENATOR BOWEN: Okay.

13 MR. BOHN: What I'm -- what I'm saying is that,
14 that is a function of the communication process, and that the
15 overall communication process has been improved dramatically
16 through the intervention of these community-based organizations.

17 As you know, we are in the next I think it's 120
18 days, doing a special review on the problems of non-English
19 language issues. That's part of our -- part of the order.

20 SENATOR BOWEN: All right.

21 I have nothing further.

22 SENATOR BATTIN: Move the nomination.

23 CHAIRMAN PERATA: Senator Cedillo, we're asking
24 if you have anything?

25 SENATOR CEDILLO: Not at this point.

26 CHAIRMAN PERATA: Anybody in the audience who
27 would like to come in support?

28 SENATOR CEDILLO: Before we start, your answer

1 was that this process is in lieu of, or a substitute? Or is
2 this process in lieu of or a substitute of translating the
3 contracts?

4 MR. BOHN: No, it's not intended as a substitute.

5 SENATOR CEDILLO: I understood exactly what you
6 said.

7 MR. BOHN: It's not intended as a substitute.

8 SENATOR CEDILLO: We met, and I appreciate a lot
9 of your thoughts in terms of systems and processes, and how they
10 impact specific concerns. I appreciate policy proposals in lieu
11 of anecdotal responses. I was very impressed.

12 But in this instance, the concern is that, I
13 mean, in the absence of, and not just from community groups as
14 the vehicles for consumers to communicate their grievances, but
15 in terms of individuals who may not utilize those groups. You
16 don't want to lose them.

17 And that may be more efficient. That may have
18 its benefits. There may be many values to it.

19 But nonetheless, it seems to me that a consumer
20 would have a right to have in the language, the contract, in the
21 language that they understand, given that all the other previous
22 communications, promotions, et cetera, are in that language.

23 MR. BOHN: I think --

24 SENATOR CEDILLO: Just as a right best, as a kind
25 of best practice.

26 MR. BOHN: I think it certainly is a best
27 practice.

28 What I would hope, in addition to that, is that

1 we get to the point where the contracts, or at least a summary
2 of the contracts, are a lot more comprehensible than they are
3 even in English.

4 SENATOR CEDILLO: Yes.

5 MR. BOHN: I find I can't understand some of the
6 terms of the contracts. And I know as a competitive thing, at
7 least one of the carriers is trying to get down to a two-page
8 "Here's what you get, and here's what it is."

9 But I didn't mean the engagement of the CBOs to
10 be in lieu the law of consideration.

11 SENATOR CEDILLO: That was my question.

12 Thank you.

13 CHAIRMAN PERATA: Now, Mr. Smith.

14 MR. SMITH: D.J. Smith, representing this
15 afternoon PacifiCorp, Constellation Energy Company, and the
16 California Large Energy Consumers Association, are in strong
17 support of this nomination.

18 We have watched the Commissioner in the months
19 that he's been there. He not only talks it, he walks it. And
20 we've seen some expeditious action take place that makes the
21 Commission work a lot better for everybody.

22 So, we're in strong support of this nomination.

23 CHAIRMAN PERATA: Thank you.

24 MR. LYONS: Good afternoon. Joe Lyons with the
25 California Manufacturers and Technology Association in strong
26 support of the confirmation of Commissioner Bohn to the PUC.

27 Mr. Bohn's credentials and work experience make
28 him ideally suited for a seat on the PUC. His business

1 background gives him an appreciation for the impact of PUC
2 decisions on businesses and the state's business climate.

3 His years on Wall Street, heading up Moody's,
4 make him well suited to understand how to increase private
5 investment in the state's energy infrastructure.

6 Through bringing more power on line, through new
7 power plants, and transmission upgrades and projects, our task
8 is as important as any facing California today.

9 Thank you.

10 CHAIRMAN PERATA: Thank you.

11 Anybody here in moderate support.

12 [Laughter.]

13 MS. ROSA: Kris Rosa in enthusiastic support --

14 [Laughter.]

15 MS. ROSA: -- on behalf of the Silicon Valley
16 Leadership Group.

17 CHAIRMAN PERATA: Breaking new ground, thank
18 you.

19 MR. DiMARE: Dominic DiMare, California Chamber
20 of Commerce.

21 I'll moderate my remarks, but we are
22 enthusiastically in support of Mr. Bohn as a Commissioner.

23 And with apologies to Ms. Sabelhaus, I have the
24 letter I should have sent earlier here with me for distribution.
25 I can give it to the sergeants prior to my departure.

26 CHAIRMAN PERATA: That would be terrific.

27 MR. DiMARE: I appreciate your time. Thank you.

28 MR. FRAHM: Good afternoon, and I'm wildly

1 enthusiastic about the nomination and confirmation of
2 Commissioner Bohn.

3 Chris Frahm with the law firm Hatch & Parent. We
4 represent water interests, both public and private, throughout
5 the State of California.

6 My own exposure to the PUC is fairly recent. And
7 I have to say, when I started there, I couldn't figure out
8 anything they were doing when it came to water. It honestly
9 made no sense to me whatsoever.

10 Commissioner Bohn does not have a long background
11 in water, but his willingness to take on the issue and the
12 amount of progress that has been made in a very short period of
13 time is really most impressive.

14 It's probably obvious that he's real smart. And
15 it's kind of like dealing with a dumb lawyer on the other side.
16 It's really hard to find solutions. This is a great thing about
17 him.

18 But the other is that he's also very willing to
19 reach out to stakeholders. We have a very diverse group of
20 stakeholders now working on implementation of the Water Action
21 Plan, from Environmental Justice Coalition for Water,
22 environmental groups, it's something that we see the interest
23 and enthusiasm, and we think we've going to be able to get
24 there.

25 So, we are very, very supportive.

26 CHAIRMAN PERATA: Thank you.

27 MR. BAUER: Good afternoon, Mr. Chairman,
28 Members. Paul Bauer. I'm here today on behalf of the Golden

1 State Water Company, and I would like to offer our enthusiastic
2 support for Mr. Bohn's appointment.

3 Thank you.

4 MR. HAWKS: My name is Jack Hawks. I represent
5 the California Water Association.

6 I just want to echo the remarks that everybody's
7 made in their support of Commissioner Bohn.

8 The only point I wanted to make was, he brought
9 up the Small Business Expo Initiative that he has personally
10 shepharded through. It's -- the enthusiasm at these
11 conferences, and there's actually been four of them in addition.
12 Last week was Sacramento, which was the biggest one.

13 These are all small businesses, minority
14 businesses, women, disabled veteran businesses, and they are
15 extremely enthusiastic when he gets up there, and the first
16 thing out of his mouth is, "We are here to do business, not get
17 into a bureaucratic exercise." That's been very gratifying, I
18 think.

19 Thank you.

20 CHAIRMAN PERATA: Don't let them break you.

21 Anyone further? Anybody here in opposition?
22 Concerns.

23 MR. GOLDBERG: Lenny Goldberg on behalf of TURN,
24 The Utility Reform Network, representing small consumers at the
25 Public Utilities Commission.

26 We look forward to a productive six years of
27 working with the Commissioner. We make it a point that we are
28 looking for a good, professional working relationship, so we're

1 here to express concerns and not opposition, because we are
2 hoping to have a productive relationship.

3 The role of the Commissioner is to be an
4 independent decision maker, making sure that consumers are
5 protected. We have in the past -- there are any number of
6 appointees, I think of Mr. Duque, Mr. Conlon, who are
7 conservative, very business-oriented, with whom we worked very
8 successfully on an issue by issue basis. So, we hope to
9 continue to do so.

10 That said, our concerns are as follows, and they
11 really have much to do with the current direction of the
12 Commission, which is, we see a pervasive market ideology. And I
13 say it as ideological rather than one that is one for one
14 pragmatic, looking at consumer concerns. The Bill of Rights,
15 the Telecomm Bill of Rights provided basic market -- basic
16 protections or all customers, was not in any sense over
17 regulation.

18 We are concerned in the future, and we'll speak
19 to -- this is some of the issues that Senator Bowen raised with
20 regard to the uniform regulatory framework considerations that
21 are going on in telecommunications. Very concerned about the
22 geographic de-averaging. Very concerned about a rush to
23 judgment that there is a market out there in telecommunications
24 when, in fact, 70 percent of your SBC customers are wire line
25 only customers. A strong push at the Commission going on right
26 now to eliminate the protection for very basic
27 telecommunications rates as well as geographic de-averaging,
28 which means potential increases in rural rates.

1 And I think that if you approach this
2 pragmatically and looking at consumers, you come to one
3 conclusion, which we think that basic telephone regulation needs
4 to stay in place. We are very concerned that the uniform
5 regulatory framework is a rush to judgment based on market
6 ideology. And we think that's the direction it's going in.

7 With regard to a number of consumer issues, again
8 we see an interest in new technologies, new market-oriented
9 devices in the case of, again what we've seen is a rush to
10 judgment for advanced metering infrastructure for electricity
11 customers, when the evidence is not at all clear that there are
12 substantial savings, when the evidence is not at all clear that
13 there is any real energy efficiency that would not come about in
14 a much more direct way, such as air condition recycling and
15 other things.

16 And I think that there is at the Commission a
17 pervasive belief that, rather than its traditional regulatory
18 role, that markets are going to solve all. And all these sort
19 of new innovations are laying substantial costs on small
20 customers.

21 A very serious piece of this is one where I think
22 large and small customers are in agreement. We -- again, a rush
23 to judgment based on ideology that we're concerned about has to
24 do with capacity, when the establishment of a centralized
25 capacity market in the electricity industry, in which we will
26 see a proposal that looks like it's moving fast, that is
27 essentially like the PX in terms of a market clearing price for
28 capacity, which will raise rates for all consumers.

1 Again, there's this belief that somehow we can
2 set up this capacity market. We're concerned that utilities and
3 generators are pushing heavily for that. It's some odd
4 coalitions around this issue. But we certainly have a concern
5 that, rather than looking at what is going to be the least cost,
6 most attractive proposal for consumers, and bring these very
7 high electricity rates down, that we're looking again at a -- at
8 certain market-oriented devices that are likely to increase
9 deregulation, and we don't want to see it again.

10 Finally, we're hopeful, but we've been concerned
11 about the trends at the Commission in which we really have
12 strong questions about the independent actions of the
13 Commissioners versus pressure from -- you know, we always try to
14 exert pressure in the Legislature, but also in terms of pressure
15 from the Governor's Office, and a kind of uniform view of "This
16 is how things should go." We know that's happened in some
17 cases.

18 We are hopeful but expressing the concerns that
19 what we will see will be independence of judgment, independence
20 about the pressures that come from a variety of issues, and
21 decisions really based on what's best for consumers. That is
22 the role of the Public Utilities Commission. It has
23 historically been the role of the Public Utilities Commission.

24 We have not seen it be the role of the Public
25 Utilities Commission in recent years. It's been overtaken by
26 goals of whatever can help and benefit industry, rather than
27 asserting the maximum leverage for consumers. That's where
28 we've raised a number of the issues in our letter to you, and

1 that's where we have a number of concerns.

2 And we look forward to hopefully a good six-year
3 working relationship where we know we're not going to agree on
4 everything, but that we'll get open consideration and open
5 discussion on an issue by issue basis. And when we're right, I
6 hope we can prevail.

7 CHAIRMAN PERATA: Commissioner Bohn was taking
8 notes, so it's a good start.

9 Anything further? Oppose, for, concerns.

10 I have a few things, but I'm going to pose them
11 as requests. Since I am going to support you, there's no reason
12 to belabor this.

13 One is, we had a little brief exercise recently
14 that involved, among other things, water, water storage. And
15 one of the things that came up during that is the reduction of
16 drinking water contamination. And since of all the things that
17 you've decided you may want to focus on, you've decided on
18 water -- which I applaud you for. The rest of the stuff is just
19 easy compared to water policy in this state -- but that is an
20 important issue to a lot of us, and particularly rural
21 communities and communities that are not yet achieving a certain
22 standard of middle-class success.

23 So, I would urge you to spend sometime, as you
24 talk about water, about the water we have and the quality that
25 it contains. It's not only what we should be doing in the
26 future.

27 The Telecomm Bill of Rights, we talked a little
28 bit about it yesterday in my office. I would ask you to step

1 into that and try to sort it out in a manner better than it has
2 been resolved today.

3 What will happen is, this will become a huge
4 legislative fight. If you don't do it there, you don't take
5 care of it there, it's going to become a fight here.

6 You've got a little longer view of things. You
7 have fewer items on your agenda than exists here. As
8 Mr. Goldberg said, often times there are political pressures
9 brought to bear here. I know it's shocking, but it often
10 happens.

11 And so, a 270-page anything is too big. And it
12 seems to me that both Senator Bowen and Senator Cedillo were
13 pointing out some very specific things that could be addressed.
14 And there's a hierarchy of priorities, it seems, that consumers
15 care about, and knowing what they're doing in a manner that's
16 timely, usually before the signature goes on, encouraging
17 perhaps a two-pager -- I love that. If you can't say it in two
18 pages, you can't say it at all -- that would be of great
19 benefit.

20 But I know it's not going to be the last time we
21 hear about that, and I'd just as soon not hear about it here in
22 the form of a 270-page bill.

23 The other thing in the office that I was very
24 impressed by was your response to the concerns about making
25 renewables in California more of a practical reality than simply
26 a fine academic discussion, and your own intemperance towards
27 the manner in which the PUC deals with procurement, and the way
28 you were relating contracts to the ability to find market

1 sources of funding.

2 I will host a meeting of some of these renewable
3 types. They're pretty -- they have propellers on their heads;
4 you can spot them anywhere -- and I'm going to ask them to get
5 together with you, and let's see if we can't do something.

6 I think you have both the background and the
7 temperament to perhaps move us in the direction that we
8 continually pass laws to get, but really where we are right now
9 is in the middle, between what we've passed and what we expect
10 to happen. So, I will do that as well.

11 Finally, let me just say that I just finished
12 reading an article in this issue of the New Yorker. I'm an
13 intellectual. Every once in a while if you read the cartoons,
14 your mind drifts and you end up reading an article.

15 [Laughter.]

16 CHAIRMAN PERATA: And so it happened.

17 But there was an article about Carl Icahn and a
18 number of his friends. As probably the most famous of all the
19 corporate raiders, you know, it became real obvious to me that
20 if we don't have some way of regulating essential services like
21 phone service, and others that fall within your jurisdiction, it
22 becomes very easy, when you look at the way in which this man
23 operated within the marketplace, that he single-handedly would
24 require businesses to do things that perhaps would not have been
25 prudent in order to get to the bottom line so that, among other
26 things, he could exact his green mail.

27 Now, in the overall scheme of things, perhaps a
28 billion here, a billion there is not that much, but it does

1 bring to mind that there are artificial forces out there in the
2 market that have absolutely nothing to do with anything but
3 greed that would influence the way in which consumers have to
4 pay for somebody else's profit.

5 I would encourage you. The article, I don't know
6 if you'd find it that interesting, but I did find it very -- I'm
7 always distressed, even though we've been through barbarians at
8 the gate, and liar's poker, or dice, or whatever it was. We've
9 seen all that. But the fact of the matter is, it still goes on.

10 You're from Wall Street. I don't mean this to be
11 -- this is a passing comment. I'm certainly not trying to tell
12 you. You've forgotten more than I know.

13 But it's an important job. It's a six-year gig
14 that, for reasons that still aren't clear to me why you're doing
15 this, but I want to thank you and compliment you for that. I
16 always like to have somebody around that has played the game and
17 knows how it's played.

18 I think Lenny will probably convert you. You'll
19 be wearing sleeveless vests soon.

20 [Laughter.]

21 CHAIRMAN PERATA: Anyway, I thank you for that. I
22 also just want to compliment your grandson. He has managed to
23 hang through this for an hour and a half. If there's not a big
24 milk shake in your immediate future, come and see me.

25 [Laughter.]

26 CHAIRMAN PERATA: Any final words, summation?
27 Don't feel that you have to.

28 MR. BOHN: Thank you, Mr. Chairman. It's been a

1 pleasure to have the opportunity to be here and to exchange
2 views with people. I look forward to working with each you and
3 all of you as we go forward.

4 SENATOR BOWEN: This is a difficult decision for
5 me because we've had such disagreement in approach on some
6 things, that it's hard for me to set aside that.

7 But I think you are capable of going to China, so
8 to speak, because of your background.

9 And I won't be here to watch what happens with
10 the slamming and the cramming regulations.

11 I won't be here to watch what happens to
12 non-English speakers, whether they can understand their
13 telecommunications bill.

14 I won't be here to see what happens with water
15 rates, with renewables.

16 But you will. And I would like to see you, and I
17 think you will, take to heart some of the things that you heard
18 today from people.

19 The one thing I really want to reemphasize is
20 this concern about places where you are looking to rely on a
21 market structure where there really isn't a competitive market
22 yet. And the geographic issues that Mr. Goldberg raised, I
23 think, are really profound. I didn't go into that in detail,
24 but we have a lot of Californians who rely on the Public
25 Utilities Commission to have affordable plain old telephone
26 service. And they're not in the district that I've represented
27 largely. We don't have many cows and pigs. Although there are
28 actually cattle in Lomita. One of them, in fact, ran into a

1 police car last year.

2 So, I'm going to cast an aye vote, but with a
3 challenge to you to be the person who makes sure that we did, as
4 we did in the Middle Ages, when they used to hang a vendor's
5 weights outside the city gates. If the vendor engaged in the
6 manipulation of the weights, or any unfair practices, that
7 vendor's weights were hung on the outside, and the vendor's
8 privileges to have a spot in the marketplace. That was in the
9 Middle Ages.

10 CHAIRMAN PERATA: Precursor to knee capping.

11 [Laughter.]

12 SENATOR BOWEN: We ought to be able to have a
13 truly effective method of dealing with some of these issues.
14 And your job is much harder than it was job then, because you
15 were only looking for dodgy weights if you were enforcing market
16 rules in the Middle Ages. You didn't have Blackberrys, and
17 wireless, and voice-over-Internet protocols.

18 So, you have your work cut out. I won't be here
19 you will. Make sure that consumers are not left out, the
20 current consumers, in the process of trying to get the process
21 of fewer complaints, which I think is a good approach.

22 MR. BOHN: Thank you.

23 CHAIRMAN PERATA: Thank you, Senator.

24 Let me also just underscore something. We have
25 accepted here in Sacramento, specific in the Rules Committee,
26 we've adopted Kern County as a Sister City. So, getting him
27 some lines that work --

28 [Laughter.]

1 SENATOR ASHBURN: So that all of California may
2 have our power.

3 [Laughter.]

4 CHAIRMAN PERATA: Exactly.

5 Please call the roll on the motion to approve.

6 SECRETARY WEBB: Ashburn.

7 SENATOR ASHBURN: Aye.

8 SECRETARY WEBB: Ashburn Aye. Bowen.

9 SENATOR BOWEN: Aye.

10 SECRETARY WEBB: Bowen Aye. Cedillo.

11 SENATOR CEDILLO: Aye.

12 SECRETARY WEBB: Cedillo Aye. Battin.

13 SENATOR BATTIN: Aye.

14 SECRETARY WEBB: Battin Aye. Perata.

15 CHAIRMAN PERATA: Aye.

16 SECRETARY WEBB: Perata Aye. Five to zero.

17 CHAIRMAN PERATA: It's unanimous.

18 Congratulations.

19 MR. BOHN: Thank you. Thank you all.

20 [Thereupon this portion of the
21 Senate Rules Committee hearing
22 was terminated at approximately
23 2:57 P.M.]

24 --ooOoo--

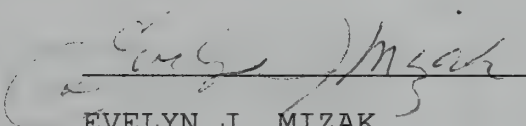
CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of March, 2006.


EVELYN J. MIZAK
Shorthand Reporter

APPENDIX

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PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA
505 VAN NESS AVENUE
SAN FRANCISCO, CALIFORNIA 94102

JOHN A. BOHN
COMMISSIONER

TEL: (415) 703 2440
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March 15, 2006

Senator Don Perata, Chairman
Senate Rules Committee
State Capitol, Room 420
Sacramento, CA 95814-4900

Re: Responses to your questions of March 6, 2006

Dear Senator Perata:

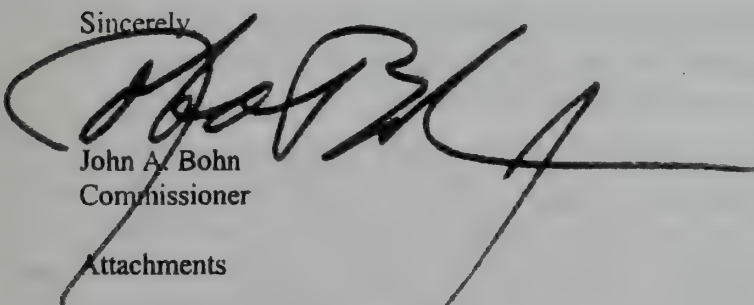
Attached are my responses to your questions of March 6, 2006. I anticipate a productive dialogue at my hearing before the Senate Rules Committee next Wednesday, March 22, and I would be happy to answer any further questions that you, or the other members of the Senate Rules Committee, may have at that time.

I take the responsibility of public service very seriously. I have dedicated a significant amount of my life to public service and am deeply honored for the opportunity to do so again as a Commissioner at the Public Utilities Commission.

The Commission touches the lives of Californians in many ways. It can affect people's lives and livelihoods. From an individual consumers complaint to issues of rate design that can affect the entire economy, the decisions made by the California Public Utilities Commission are among the most important policy decisions. I believe that I have the right experience for the tasks at hand.

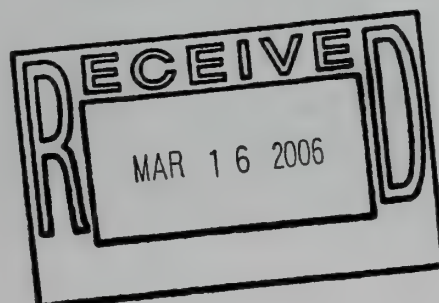
I look forward to meeting with you and look forward to my appearance before the Senate Rules Committee next week. If you have further questions, please contact me at (415)703-2440.

Sincerely,


John A. Bohn
Commissioner

Attachments

cc: Members of the Senate Rules Committee



1. *What are your goals and objectives as a Commissioner of the Public Utilities Commission? What do you hope to accomplish during your tenure?*

I came to the Commission on May 5, 2005 from a background in banking, finance, and international economic development. I have learned an incredible amount about the utilities we regulate during the past ten months and I intend to keep learning as rapidly as possible. As a consequence, my philosophy is not based on ideology or politics, but rather on what is fair, what works, and what strikes the appropriate balance between costs to ratepayers protecting consumers and providing the needed energy, telecommunications and, water service levels to consumers.

One of my objectives is to improve the Commission's effectiveness, as well to increase the speed at which the Commission acts. The Commission must become increasingly proactive and timely in its decisions and not affect a lackadaisical approach in dealing with issues. I believe that we need to gather the facts, perform our analysis, and make determinations as to the best way to move forward. All too often, the fate of many interested individuals hangs in the balance. I believe that justice delayed is justice denied.

One way to address this objective is to increase the effectiveness of our policies. I will insist on a rigorous examination of the costs and benefits of proposed programs and policies as part of the decision-making process. Once we embark on a policy or develop a program, I will fight to have that policy or program implemented as effectively as possible, minimizing costs while maximizing benefits.

Another dimension to my approach is to work directly with the regulated utilities and other stakeholders to develop sound policies that benefit California. To accomplish this, the Commission must communicate clearly with the utilities what the Commission's expectations are and give them some choice and flexibility in how to meet those expectations. If mid-course corrections are needed, I will not hesitate to tighten the reins to correct the problem.

California utilizes the money, talents, expertise, and knowledge of other people for the provision of utility service. The CPUC can direct the application of these resources, but it does so through the entities we regulate. We must create a fair and balanced approach to our regulation, one that provides an opportunity for economic gain, while still ensuring that ratepayers and the environment are protected.

In the past ten months, I have established good working relationships with my fellow Commissioners, even if we disagree on issues. I believe it is important for the Commissioners to pursue shared objectives and to make the most out of our limited resources. In addition, I am committed to having productive relationships with members of the Legislature. I want the members of the Legislature to feel comfortable discussing with me any issue before the Commission, and I hope that I can do the same. I am always open to listening to a new perspective. In my office, issues are never prejudged.

Rather, I look at each case, and try to figure out how to reach the best result for California.

Energy

Energy is a pressing issue in California. We are well on our way to recovering from the energy crisis of 2000-2001, but there are still many obstacles that we need to address. Also, because California will continue to grow, the Commission must always focus on future reliability for electricity and natural gas.

In electricity, my objective can best be described as “making sure that the lights stay on at a reasonable price.” To achieve this we must make certain that we have adequate resources to meet existing and future demand for energy. Ensuring adequate resource means that we must have sufficient capacity to meet current needs and enough new capacity underdevelopment to meet future demand. How do we get this? One word: investment. We must restore investor confidence in California to ensure reliability.

All investment decisions are decisions among alternatives, including the decision to invest in California’s critical energy, telecommunications, or water infrastructure. We are in competition for investment with every other state or county in the world. Any investment decision is a judgment that is influenced by the perception that investor has about the opportunity to generate profit consistent with the risk. Continued investment in our utility sectors requires getting this balance right.

Credit and investment will flow only where there is real opportunity for profit. Just as is the case with international finance, the single most important precondition for investment is a clear and consistent set of rules of the game. Concepts like stability, transparency, rule of law, regulatory compact and fairness, are all aspects of this one principle. It is fundamental to any risk/reward decision that takes place in the investor's mind.

Other objectives I am pursuing in the energy arena are:

- Efficient and cost effective implementation of the California solar initiative and the Commission green house gas regulations.
- Promoting a strong natural gas infrastructure that provides continued access to diverse sources of natural gas supply and maximizes natural gas storage in California.
- A robust transmission system that facilitates cost effective dispatch of our generating plants, access to renewable resources and heightened reliability.

During my tenure at the CPUC I intend to see these goals realized . Many of these issues are addressed in the Energy Action Plan (EAP), a plan we adopted jointly with the California Energy Commission. The EAP establishes shared goals and specific actions to ensure that adequate, reliable, and reasonably-priced electrical power and natural gas supplies are achieved and provided through policies, strategies, and actions that are cost-

effective and environmentally sound for California's consumers and taxpayers. The EAP will help the Commission give California consumers the lowest possible rates for electricity and natural gas. Under the EAP, the Commission also pledges to continue the vigorous pursuit of those who manipulated the market and caused other harm to ratepayers during the energy crisis. Lastly, the EAP ensures that the Commission will reach the earliest possible settlement of long-term contract issues stemming from the energy crisis, which will greatly benefit ratepayers, as well as allow market conditions to normalize. I am committed to the objectives of the EAP and will work with my colleagues at the California Energy Commission, the Legislature and the Executive branch to implement it.

Telecommunications

I have also spent a great deal of time addressing current issues in telecommunications. Contrary to recent rhetoric, I believe strongly in consumer protection. I believe the recent Consumer Bill of Rights Decision by the Commission achieves these results. The Commission issued this decision less than two weeks ago, and already, our staff is moving swiftly to enact its provisions. I also believe strongly that the Commission must encourage innovation and investment in the telecommunications and broadband markets. During my tenure as Commissioner, I hope to accomplish the following goals with respect to telecommunications and broadband:

- Assure true consumer choice through vigorous enforcement of consumer protection laws and policies, efficient and timely complaint procedures, effective education efforts, and public accountability of company management.
- Encourage the spread of broadband throughout the State and increase the access and utilization of broadband technologies in the State, including to underserved communities.
- Ensure our regulations are not hindering innovation and investment in advanced new telecommunications products and services, while at the same time, protecting consumers' rights.
- Maximize consumer choice and competition in telecommunications and broadband markets.

Consumer Protection

I am directing much of my attention to consumer protection in all substantive areas. I believe that the Commission has a mandate to uphold and protect consumers from violations of statutes, regulations, and Commission rules. This principle should be applied to all cases, whether it is a small moving company or a large telecommunications carrier. To make sure that utilities and other companies that we regulate follow the law, we must investigate violations of the law, provide the wronged party with redress, and institute some sort of punishment against the entity that committed the violation, where appropriate. The three ways I envision instituting this policy at the Commission are by:

- A professional and effective consumer education program
- Holding corporate leadership personally accountable for the activities of their companies and seek their personal involvement in achieving their company's compliance with our regulations.
- Strong and effective enforcement of consumer protections and utilizing the Commission's resources and influence to protect consumers against unfair, abusive, unsafe, or fraudulent behavior.

Water

Upon joining the Commission, I inherited the water portfolio. That means I am to be the "designated hitter" with water expertise. I believe that every individual in the State has the right to clean, affordable water. Within our jurisdiction, we at the Commission need to step up to this responsibility and make that happen. In our quest for lower costs, I do not support policies and ratemaking that allows the infrastructure of water companies' to deteriorate. On December 15, 2005, the Commission adopted the Water Action Plan, which set forth the policy objectives that will guide the Commission's regulation of investor-owned water utilities. The Water Action Plan also emphasizes the actions that the Commission expects to take, or will take, to enact these policy objectives. The policy objectives on water issues that I plan to focus on during my tenure as Commission are:

- Updating the regulation of private water utilities to assure their compliance with evolving water and delivery standards.
- Developing Commission participation in water policy-making statewide.
- Applying regulatory tools utilized in the electric, natural gas and telecommunications to complex water issues.
- Working to consolidate entities where it makes sense for ratepayers.
- Quickly addressing health issues when they arise.
- Supporting streamlining the process to reduce the effect of rate increases.

Commission Processes

I am also focused on improving the administrative processes at the Commission. Commission proceedings often drag too long, and resolution is sometimes reached at such a late date that it loses its impact or is no longer as meaningful. While I understand and encourage Commission staff to conduct thorough investigations and perform due diligence in reaching recommendations and decisions, this must be balanced by parties' need to have proceedings move in an expeditious fashion. To that end, I intend to focus on improving the following areas at the Commission:

- Increase the speed of the decision-making process through the encouragement of settlement discussions, delegation of authority, rigorous discipline in hearings, and other fact finding activities.
- Increase informal contact with senior corporate leadership to promote compliance and good corporate behavior.
- Judicious management of Commission proceeding assigned to me to oversee.
- Thorough and rigorous analysis of the issues before us.

In sum, I expect to implement measures to make our processes more judicious and expeditious. I think that this change will result in significant savings to all parties, and to the Commission itself, and I also believe that this change will lead to better decisions. I plan to be at the front lines in enforcement in all areas, and help give our staff the support and resources they need in order to take action and protect consumers from those who violate the law.

Small Business Expos

I am an advocate for small businesses. They are the engines of job growth and innovation upon which California relies. I have spent a significant part of my life starting and managing and in some cases winding up small business. I understand the difficulties of getting a small business up and running. I have had to make a payroll and provide health and retirement benefits to employees.

We have held a series of Small Business Expos across the state that bring together small businesses and procurement officers from the utilities to explore opportunities. To date, we have held three very successful expos in Oakland, San Diego and Bakersfield. At these Expos small businessmen and women have an opportunity to sit down with utility management responsible for procurement and discuss actual ongoing opportunities. To date we have had over 400 individual small business people attend our first three Expos. We have a fourth scheduled for Thursday, March 16, 2006 in Sacramento that has (as of March 15th) over 250 folks from small businesses registered. We have other events that are being planned in Los Angeles and in Riverside.

2. In the mid-1990's, the commission's administrative procedures came under legislative review due to the perception that commission proceedings were not open or accessible to the public. That scrutiny resulted in bipartisan support for AB 2850 (Chapter 1110/1994) and SB 960 (Chapter 856/1995) which, among other things, sought to reform commission procedures.

More recently, parties have complained that information from commission proceedings is increasingly shielded from the public. For example, in the area of utility energy procurement, parties often are required to sign "confidentiality agreements" which bar them from discussing publicly and with the Legislature the details of power purchases.

What actions do you support to improve open, and record-based, decisions by the commission and better information exchange between the Legislature and the commission?

I strongly support open and transparent decision-making. We are accountable to the public and to the parties who participate in our proceedings. It is also important for parties and the public understand how and why we arrive at our determinations. It is my objective to make as much information utilized in our decision-making available to the public as possible, while still protecting market sensitive information from disclosure. I support minimizing the Commission's reliance on confidential information. However, we must not undermine our ability to make solid decisions based on the facts by failing to examine confidential information. We owe the public a decision with integrity. Like much of what the Commission does, we must strike a delicate balance between providing the public information on how we reach our decisions and protecting market sensitive information from disclosure.

A mere claim by a utility or any party that information is confidential does not suffice in my book. Those wishing the Commission to consider information provided to us as confidential bear the burden of proving its market sensitivity or providing another compelling reason for this information to be considered confidential.

In those cases where we must rely upon confidential information, we should seek ways to aggregate, or otherwise mask, the data so that the public, to the extent possible, can see and understand the basis of our decision-making and the reason we allowed the information to remain confidential. Additionally, we must seek ways to use proxy information or other non-confidential data in reaching our conclusions so the public can follow our reasoning.

With respect to the electric industry and the Commission's procurement activities, we are currently examining this issue. In June, 2005, the Commission opened an Order

Instituting Rulemaking (OIR), R.05-06-040, to implement SB 1488.¹ The OIR created two phases. Phase 1 focuses on confidentiality of records related to electric utility and Energy Service Provider (ESP) procurement, the Renewable Portfolio Standard (RPS), resource adequacy and related energy proceedings. Phase 2, concentrates more generally on the confidentiality of records submitted to the Commission, as well as the Public Records Act.

In particular, Phase 1 focuses on the intersection of the confidentiality requirements of Public Utilities Code sections 583 and 454.5(g), and the need for open, transparent decision-making. We are seeing these issues play out in many of the proceedings related to energy procurement and the Energy Action Plan. In our rulemaking, we stated:

“We must seek to construe § 454.5(g) in a manner that is consistent with the public participation and open decision making requirements of SB 1488. Blanket claims of a need for confidentiality will no longer suffice if we are to satisfy SB 1488’s concerns. Nor can we ignore § 454.5(g)’s mandate to ensure the confidentiality of market sensitive information. Rather, we must attempt to strike an appropriate balance. Thus, we will require that parties asserting confidentiality be as specific as possible about the harm that they contend will result from publication of various types of procurement information.” (R.05-06-040, p. 18.)

The Commission held hearings from November 28-December 2, 2005. Parties filed the last rounds of briefs on February 22, 2006. A draft decision regarding the confidentiality of electric procurement and related documents is expected later this spring. One of the contentious issues in this proceeding is defining “market-sensitive information.” In addition, as confidentiality disputes arise in individual procurement-related proceedings, the assigned Administrative Law Judges (ALJs) are closely coordinating with the ALJ handling the SB 1488 rulemaking to guarantee sensitivity to the issues and consistency of outcomes in both proceedings.

I have a keen interest in the issue of confidentiality and how it plays into CPUC determinations and I will carefully review these proposed decisions. I strongly support open and transparent decision-making. I also recognize that we must ensure compliance with the law and that ratepayers are protected.

- 3. SB 960 (Chapter 85611996) requires commissioners to be present at specified commission proceedings. It also requires the commission to file an annual report on its compliance with those requirements and with other procedural**

¹ The Order Instituting Rulemaking (OIR) may be viewed at http://www.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/47631.htm.

reforms enacted during the 1990's. Recent reports show that commissioners were present on less than one of five days in which hearings were held.

What actions would you take to ensure your full participation in commission proceedings as required by SB 960?

It is already clear to me from my time on the Commission that early and regular involvement by the Commissioners assigned to a proceeding helps proceedings to move forward in a timely, expeditious, and efficient manner. Commissioner involvement in proceedings, particularly at the early stages, ensures that Commissioners are guiding the policy development and that this important role is not excessively delegated to staff. I am committed to early and regular involvement in the cases assigned to me.

SB 960 states: "[i]t is the intent of the Legislature to ensure that members of the Public Utilities Commission shall be integrally and directly involved in, and accountable for, the commission's decisions. The Legislature intends to enhance commissioner involvement in decision-making, thereby improving the quality and timeliness of commission decisions."

In adopting SB 960, the Legislature clearly intended that Commissioners engage in the Commission's proceedings and participate actively in their assigned proceedings. I am committed to being fully engaged in my assigned proceedings.

By the same token, however, it is vital from an efficiency perspective that the full intellectual resources of the Commission be brought to the decision-making process as well in order to sharpen issues, provide expertise, and harmonize procedure. Full participation of the Commissions should not be loosely equated with physical presence in the hearing room. The legislative intent of SB 960, that Commissioners be "integrally and directly involved," can be honored, in both the spirit and the letter, by Commissioners giving strong guidance, through interactions with the assigned ALJ and other staff, scoping memos, and attendance at pre-hearing conferences. I actively work to provide that guidance in my assigned proceedings.

The bulk of Commission proceedings do not require hearings of any sort. Of the 95 cases assigned to me since my appointment in May of 2005, 73 have not yet required hearings. Of the 23 cases assigned to me that are now closed, only three required any type of hearing. Of those three cases, I attended hearings in one case. Of the five days of hearings in these cases, three were prehearing conferences (one of which was in Lake Isabella, California) one was a public participation hearing (held in Yreka, California) and one was a legislative style, panel hearing that I attended.

In key cases, particularly where policy issues are involved, I attend the prehearing conferences as I have recently done in the PG&E General Rate Case proceeding (A.05-

12-002), the PG&E Pension funding case (A.05-12-020), and in the investigation of limousine provider Wine and Roses (I.05-06-042). In other cases I discuss the case with my staff and assign one of my advisors to attend the pre-hearing conference on my behalf and provide detailed follow-up reports directly to me.

In cases where a scoping memo is issued, I utilize this document, as intended by SB 960, to take an active role in the case. In the Scoping Memo, I determine the issues to be addressed in the proceeding and set the schedule for the case. For example, in several of my assigned water utility general rate cases, I have required that the scope of the hearing include discussion of how the parties' proposals: (a) promote both reasonable rates and short and long-term utility viability; (b) affect the utility's ability to ensure water quality in the short and long-term; (c) increase customer and utility conservation incentives; (d) affect infrastructure development and investment; (e) moderate rate impacts on low income customers; and (f) make the Commission's regulatory and decision-making processes more timely and efficient. Further, in very case assigned to me, I have used the Scoping Memo to require parties to engage in early, settlement discussion to see if the areas of disagreement can be narrowed or, at the very least, be clarified so as to minimize the time and resources it takes to reach a determination.

I meet with the assigned ALJ at the initiation of the case and this close working relationship usually continues throughout the case. Often, as the case proceeds, I meet with the ALJ and other staff to ensure that the case stays on track and to provide the important direct Commissioner management of the conduct of the case.

An example of this is in A.05-07-010, the Acquisition of PacifiCorp by Mid-America Energy Holding Company, filed on July 15, 2005. I worked closely with the Assigned ALJ to draft a scoping memo that laid out a procedural schedule to have a final decision by February 2006, and I determined the scope of the case and the standard of review that would be applied in reviewing the merger. There was a single day of hearings which was conducted in a legislative style format with panels of witnesses. I presided over this hearing and, as a result, was the "principal hearing officer" for the case. As the principal hearing officer, I collaborated personally, with the assistance of the assigned ALJ, on the proposed decision. The proposed decision was adopted on February 14, 2006, right on the schedule as outlined in the scoping memo.

Since assigned to the Commission I have been assigned 95 cases and have closed 23 of those individual cases. As the number of active cases assigned to me continues to grow, I have initiated a process to ensure that I meet on a regular basis with the assigned ALJs. As part of this new plan, I recently scheduled group meetings with the ALJs assigned to my cases. These meetings among myself, my advisors, and the ALJs on cases assigned to me will provide an efficient way for me to oversee the development of these cases and allow for me to be integrally involved in each of the cases to which I am assigned. I will be meeting with all of the ALJs assigned to my cases in larger industry-

focused meetings that discuss the status of all my cases in a particular industry and provide opportunities for better case coordination.

4. **According to the CPUC website, your Form 700, and other background information. You continue to maintain outside business affiliations and sit on several corporate boards as you serve on the CPUC.**

For example, information on the commission's website suggests that you are affiliated with Globalnet Venture Partners, a global financial advising and consulting firm, and that that you serve as chairman of the board of directors of The Center for International Private Enterprise, a non-profit affiliate of the National Endowment of Democracy and the U.S. Chamber of Commerce, and that you serve as a director and member of the executive committee of the U.S. Chamber of Commerce.

Do any of these affiliations pose a conflict of interest with your duties as a CPUC commissioner? To the extent they do, how do you propose to address any conflicts that may arise?

None of these affiliations pose a conflict of interest with my duties as a CPUC Commissioner. As a matter of U.S. Chamber of Commerce policy my term on the Board ended on January 1, 2006 and separately my term on the Board of the Center for International Private Enterprise (CIPE) will end on April 15, 2006. Under the Political Reform Act, I do not have any economic interests in CIPE due to the fact that CIPE is a 501(c)(3) charitable organization or in the U.S. Chamber of Commerce. I have not had to recuse myself from any matters before the Commission due to my activities on behalf of these non-profit organizations, nor do I foresee having to do so in the future, because it is extremely unlikely that the Commission's actions would materially impact the finances of these organizations.

With respect to Global Net Energy Services, LLC, I have a 25% ownership interest and no management role. GlobalNet Venture Partners is essentially inactive at the present. It is unlikely that either of those companies or their clients will be materially impacted by Commission actions. However, my staff has been fully informed about these economic interests, and they are on the alert for situations where Commission actions may affect these entities. When so advised, I will recuse myself from participating in Commission decisions whenever such recusal is required by the Political Reform Act or any other conflict laws that apply to me. I have not had to recuse myself from any matters before the Commission due to my interests in GlobalNet Venture Partners or GlobalNet Energy Services nor do I foresee having to do so in the future, as it is extremely unlikely that the Commission's actions would impact the finances of these organizations in a material amount.

Further, my activities with respect to CIPE and the U.C. Chamber of Commerce have not impacted my ability to carry out my duties as a CPUC Commissioner. Neither of these affiliations required undue amount of time. Finally, my involvement with GlobalNet Venture Partners and GlobalNet Energy Services likewise do not require significant amounts of time and do not detract from my ability to carry out my duties as a Commissioner of the CPUC.

5. **As the state's 2000-2001 energy crisis illustrated, California is vulnerable to electricity shortages and the ills that accompany them. Californians still pay, on average, among the highest rates in the nation. Hot weather, coupled with other factors, including economic growth, could reduce reserves to very low levels as early as this summer.**

What actions do you support to lower investor-owned utility rates? What should the commission be doing to assure an adequate and affordable supply of electricity, both for this coming summer and for the long term? What steps do you support as a commissioner to, improve energy efficiency, diversify electricity supplies, improve transmission infrastructure, and strengthen system reliability?

. I am committed to doing all that I can to make certain that the rates are reasonable and as low as possible given the obligations the Commission has to ensure adequate energy resources and other mandates. All of the utilities file general rate cases (GRCs) on a rotating basis. At this time, I am the assigned Commissioner for Pacific Gas & Electric's (PG&E) General Rate Case for the test years 2007-2009. It is my intention to vigorously review the request of the utility, and do all we can to ensure that PG&E's rates are reasonable and that its costs are not excessive.

General rate cases cover less than one-third of the utilities' total costs. The remainder of the ratepayer burden is related to procurement – the costs of fuel for power plants and the cost of electric power in the marketplace used to serve customers. Thus, setting the rules for procurement and auditing procurement costs is also central to controlling overall rates. The Commission's basic policy for procurement is that the utilities should procure in an open, competitive, and transparent marketplace. There should be a demonstration of economic dispatch, and utilities should demonstrate that procurement is done at the least cost.

In addition to overall vigilance of the reasonableness of costs incurred by Investor Owned Utilities, there are six specific policies that I will pursue to ensure low electricity rates in California.

1. Cost effective energy efficiency focused on reductions of peak load. As stated in Energy Action Plan (I and II), cost effective energy efficiency is the resource of first choice for meeting California's energy needs. Energy efficiency is the least cost, most reliable, and most environmentally-sensitive resource. California's energy efficiency programs are the most successful in the nation and we want to

continue to build upon those successes. By focusing on reducing peak load, we can avoid purchasing the most costly electricity magnifying the effectiveness of our energy efficiency programs.²

2. No Blank Check. When the Commission approved Southern California Edison's steam generator replacement for San Onofre, I insisted that there be an absolute cost cap. A "No Blank Check" policy is key to the Commission's responsibility to ensure that rates for electricity are as low as possible and that the utilities operate with cost impact in mind.
3. Cost effective improvements to the state's transmission system. Our transmission system has been upgraded in recent years, mostly through a significant number of small improvements throughout the system that have significantly decreased congestion and increased reliability. This reduction in intra-zonal congestion has resulted in savings of \$223 million in 2005 over 2004 according to recent reports from the California Independent System Operator (CAISO). Also, specific transmission projects will enable California to access lower cost renewable resources to meet the states RPS standard. These transmission upgrades also provide a cost-effective means for improving system reliability.
4. Enhancing our state's natural gas infrastructure and access to diverse supply sources for natural gas. A robust natural gas infrastructure will maintain California's access to competitively priced natural gas, minimize costly supply disruptions and help prevent against market manipulation. Throughout the winter of 2005-2006, natural gas prices (spot market) at the California border were, on average, 23% lower than the NYMEX spot price. During the first week of November, at the peak of the winter price spike, prices at Henry Hub (the NYMEX market) were more than 50% higher than the California market price.

Since 1999, nearly 10,000 megawatts of new gas-fired generation have been added in California. Today, we generate 45 percent of our electricity from natural gas-fired generating plants. This reliance on natural gas demands that we continue to develop our natural gas infrastructure and maintain access to diverse sources of supply.

Additional storage capacity in California is part of this robust infrastructure. One of the cases recently concluded by the Commission the approved Lodi Gas Storage's request to expand its storage capacity. I actively managed this case to ensure that it was completed expeditiously in order to allow the project to be finished in time for storage for next winter. Our approval of this project on March 2, 2006 means an additional 1 billion cubic feet in storage by the onset of winter.

² Since the peak is often served by the least cost-effective and least efficient resources, cutting peak usage also has significant environmental benefits as well.

5. Work with Department of Water Resources (DWR) to minimize the cost of DWR contracts thereby reducing the impact DWR contracts have on rates. A significant element in the rates of the investor-owned electric utilities is the component related to the contracts signed by DWR during the energy crisis of 2000-2001. I support our State's efforts to renegotiate these contracts even as some begin to expire. As these contracts begin to expire in 2008, the rapid flow-through of these reductions to ratepayers will be a priority of mine. Additionally, as the contract exposure diminishes, large cash balances that DWR maintains to protect its favorable credit ratings must be returned to ratepayers. My objective is to return that money to ratepayers as quickly as possible once it is no longer needed by DWR. Also, I will scrutinize the revenue requirement request of DWR to highlight any areas of concern and I will work with DWR to ensure that the revenue requirement is as low as possible.
6. Support active Commission intervention in FERC transmission rate cases that affect California rates. The CPUC often intervenes at the FERC on issues concerning transmission owned by utilities. Additionally, the FERC reviews the costs of the CAISO. Intervention by the CPUC in these key cases will ensure that California's ratepayers are fairly represented and could save millions of dollars in transmission related costs.

Additionally, the Commission's efficient and expeditious resolution of the business before it results in lower costs for the Commission and for all parties to our proceedings. This is especially true for the utilities, which bear the cost of making their cases before us. The efficient management of the Commission's case load also sends a signal to all parties and to the investment community that the CPUC is on track and able to do its business. In striving to enhance California's business-friendly climate through expanded investment in our State's business community and electric system infrastructure, we An important part of our overall effort is making California a good place to do business and to make appropriate investments in business and the electric system's infrastructure. That in turn can yield even greater savings for customers in the future.

Resource Adequacy

The Commission is in the process of developing a resource adequacy program to ensure an adequate supply of electricity and to prevent the price spikes like those that occurred in 2000-2001. In February 2006, electric utilities and energy service providers were required by the Commission to show they had procured 90% of their capacity needs

including a reserve requirement of 15% for this summer.³ The filings showed 92% of this peak load plus planning reserve has been procured.⁴

Starting May 1, 2006, electric utilities and energy service providers will need to show they have procured 100% of their needs (including a planning reserve of 15% one month in advance) every month. On September 30, 2006, and every September 30 thereafter, electric utilities and energy service providers will need to demonstrate that they have procured 90% of their needs (plus a planning reserve of 15%) for the following summer. This program ensures that 90% of capacity needs are procured seven to ten months in advance, and 100% of capacity needs, including a 15% planning reserve, one month in advance, thereby protecting consumers from shortages and price spikes.

In addition, and of critical importance, is the need to invest in additional generation capacity. Energy efficiency gains and increased demand response will reduce the scale of that need, but neither that, nor an increase in renewable energy, will forestall the need for new fossil fuel fired generation. By creating a requirement for entities to procure sufficient capacity, we are creating the demand that will drive this new investment. I will work to ensure that the Commission's policies support a positive investment climate.

To further ensure adequacy of supply, the Commission is entering its second cycle of utilities' long term procurement plans (plans are filed every two years). Utilities file ten year forecasts of electric demand and their plans to meet that demand. These plans must include the priorities of the loading order (e.g. energy efficiency, demand response, and renewables). The Commission reviews the procurement plans and provides oversight to ensure reliability and to minimize the cost to ratepayers.

Improve Energy Efficiency

I fully support the loading order and the energy efficiency policies outlined in the Energy Action Plan (EAP). As stated in the EAP, cost effective energy efficiency is the resource of first choice for meeting California's energy needs. Energy efficiency is the least cost, most reliable, and most environmentally-sensitive resource, and it minimizes our contribution to climate change. California's energy efficiency programs are the most successful in the nation and we want to continue to build upon those successes.

For the past thirty years, while per capita electricity consumption in the U.S. has increased by nearly 50%, California's electricity use per capita has been essentially flat. This achievement is the result of continued progress in cost-effective building and appliance standards and ongoing enhancements to efficiency programs implemented by

³ This means that LSE must procure 90% of 115% of their peak load.

investor-owned utilities (IOUs), customer-owned utilities, and other entities. California's efforts have reduced peak capacity needs by more than 12,000 megawatts (MW) and continue to save about 40,000 gigawatt hours (GWh) per year of electricity. Most recently, in September 2004, the CPUC adopted the nation's most aggressive energy savings goals for both electricity and natural gas. In achieving these targets, the IOUs will save an additional 5,000 MW and 23,000 GWh per year of electricity, and 450 million therms per year of natural gas by 2013.

However, to achieve the full energy efficiency potential that exists in California, we must continue to ratchet up our efforts. We need to focus not only on developing and supporting programs, but also on increasing public outreach and education; promoting research, development, and demonstration; and improving the evaluation, measurement, and verification of efficiency programs.

I voted to support the 2006-2008 energy efficiency program portfolios and funding. This \$3 billion dollar commitment to energy efficiency is expected to yield over \$5 million in net benefits.

I have led the effort, as outlined in both the Water Action Plan and the Energy Action Plan, to identify opportunities and support programs to reduce electricity demand related to the water supply system during peak hours and opportunities to reduce the energy needed to operate water conveyance and treatment systems.

On March 28, 2006, I will chair a symposium entitled "The Regulatory Challenge Linking Water and Energy." The symposium seeks ways to increase the energy efficiency of the water utilities that are under our jurisdiction. The premise is that water conservation is also energy conservation. Delivering water is an energy intensive business, and by reducing the use of water, we can significantly reduce electricity demand. Additionally, there is a tremendous opportunity to improve the energy efficiency of our water utilities so that each gallon of water requires less energy to pump and transport. This symposium will discuss forward-looking research and regulatory policies that can support both water and energy efficiency.

The symposium is co-sponsored by the California Energy Commission, the California Department of Water Resources, the California Independent System Operator and the California Public Utilities Commission, and will be held on March 28th, from 10:00 a.m. to 4:00 p.m., at the California Energy Commission Hearing Room A, 1516 Ninth Street, Sacramento, CA.

Renewable Energy

The Commission has gone beyond the mandated 20% of renewables by 2017 and is pressing utilities to reach 20% by 2010. I fully support this policy of the Energy Action Plan. Further, I am encouraging our efforts, as outlined in the Energy Action Plan, to move beyond this goal.

Additionally, I believe that renewable energy development is key to our nation's long term security. Development of renewable energy sources, not only in the production of electricity, but also with respect to transportation fuels, is key to greater overall energy independence. This does not mean that we isolate ourselves from the global market, but rather by diversifying our fuel sources, whether it is by accessing new areas of supply, or by turning to new sources of renewable energy, we can be a global leader.

In addition to the mandatory procurement of renewable energy, the Commission has expressed a policy that the utilities should be investing in a diverse portfolio of supply options and in appropriate hedging. A large portion of California's electric supply is generated from one fuel only: natural gas. In the long-term procurement plan proceedings, the Commission has requested that the utilities' plans include greater diversity in fuel types.

One of the most cost-effective ways to diversify California's fuel supplies for power plants is to foster investment in Liquefied Natural Gas (LNG) facilities. Natural gas is the most clean and convenient of fossil fuels, and we in California are net importers. Currently, the Canadian and the Rocky Mountain natural gas supplies are beginning to run down. California should find a way to tap into world markets beyond those reachable by traditional pipelines on the North American continent.

Several factors are impacting the construction of new power plants in California, and the Commission has several proceedings underway to mitigate or eliminate barriers to investment. One proceeding is resolving a number of issues delaying the construction of transmission to areas that experts believe should be developed for wind generation. Another proceeding is developing the Governor's solar initiative. A third, the Long Term Procurement proceeding, is resolving cost allocation issues related to utility purchases. In addition, there are several examples of current efforts to build new generation in California. PG&E is in the final stages of a request for proposals to construct 2,200 MW of new generation. At the end of last year the Commission approved two contracts by Southern California Edison (SCE) and San Diego Gas and Electric (SDG&E) that will result in two new solar facilities being built. SCE has pledged to buy up to 850 MW, and SDG&E has committed to buy the power from a 900 MW solar facility.

The Commission, the California Energy Commission (CEC) and the CAISO are working cooperatively to ensure electricity needs are met. PUC, CEC, and CAISO staff meet regularly at many different levels to coordinate initiatives, share data, and jointly

solve problems. Still, California's electric utility rates will never be the lowest around. There are sound policy reasons, as well as features of our landscape, that will prevent us from being the low-cost energy leader.

First, we Californians are the stewards of a beautiful state, and we are politically committed to keeping it beautiful through sound environmental policies and other public good programs. There might be some dollar savings from having lower standards, but California places significant weight on environmental and social policy. It is important to remember that there is a cost to this commitment, and it is a cost that ratepayers must bear.

Second, although California is blessed with significant hydro-electric resources, our electric system can never depend on free falling water for a large portion of our total electric production as they do in the Pacific Northwest. In a typical year, the Northwest gets 54% of its electricity from hydro, and another 32% from coal. The rest of the Northwest's electricity comes from natural gas (8%), nuclear (3%) and non-hydro renewable sources such as biomass, wind, and geothermal (3%). It is not possible for us to compete on a dollar basis with systems that are mostly hydro-driven with a lesser reliance on traditional power plants, particularly when those fossil plants are coal-fired.

Third, our State has chosen to be a leader in developing electric efficiency as a source to offset additional investment in electric production. California has decided to be a leader in energy conservation and demand reduction. Our demand side management initiatives not only reduce the amount of electricity that needs to be produced, but they also supplant part of our demand for new generation capacity. Our analysis shows that these programs are cost effective and reduce the total cost of meeting California's electricity needs, resulting in lower overall costs to ratepayers. However, some of those savings are in the form of decreased electric usage, not lower electric rates. That means the bills may be lower, but the rates are not necessarily lower.

6. **In 2002, SB 1078 (Chapter 516, Statutes of 2002) enacted into law California's Renewable Portfolio Standard. Today, over three years after the law's enactment, parties complain that few new renewable energy projects have been built in the state under the new law. Renewable energy advocates complain that the Commission has taken too long to implement the law and have made its implementation excessively complex.**

A new report issued by the CPUC under a consultant contract suggests that there is a risk of renewable project contract failure, thereby potentially setting back the state's RPS efforts. In addition, it has become increasingly clear that new transmission and transmission upgrades are needed in order to meet the state's ambitious renewable goals.

What actions will you take to ensure that new renewable energy projects will be built in the state soon and that the program does not become excessively complex? What actions will you take to address concerns over potential contract failures, and to ensure transmission capacity is available for renewable energy?

SB 1078 is an important piece of Legislation. Its greatest strength lies in the clear direction that it established for California energy policy. SB 1078 laid out a clear mandate for California to get 20% of its electricity from renewable sources by 2017. SB 1078 was the first step along a path that committed this State to an expansive policy of increased use of renewable resources and reduced dependence on fossil fuels to meet our state's electricity requirements.

Much has already been accomplished under the state's Renewable Portfolio Standard (RPS). The state's three major IOUs – Pacific Gas and Electric Company (PG&E), Southern California Edison (SCE), and San Diego Gas and Electric (SDG&E), have recently signed a large number of contracts for renewable energy capacity. Through interim renewable solicitations in 2002, bilateral contracts, and 2003-04 requests for offers (RFOs), these three utilities have signed contracts for roughly 1,700 – 3,000 MW of new or repowered renewable capacity, depending on the exercise of project expansion options. If each of these new projects achieves commercial operation, total deliveries could equate to 3.1% to 5.4% percent of the IOUs' combined 2004 electricity load. All three IOUs are now proceeding with their 2005 RFOs and the CPUC expects the IOUs to file 2005 contracts with the Commission shortly.

Having said that, I and my colleagues at the CPUC, acknowledge that project viability is an issue that the Commission needs to evaluate on an ongoing basis if California is to reach its goal of 20% by 2010. Projects may fail to achieve scheduled commercial operations for a myriad of reasons, many of which are outside the control of the purchasing utility and some of which are outside the control of the renewable developer. Consequently, the CPUC is doing the following to mitigate against potential project failure:

- Further elevating the analysis of project viability in the bid evaluation process.
- Carefully monitoring the ongoing status of contracted renewable development.
- Coordinating with the RPS Transmission proceeding to ensure the needed transmission upgrades are occurring in a timely fashion.
- Evaluating whether the CPUC needs to be more prescriptive with over-procurement targets.
- Scrutinizing the different approaches used by the state's IOUs to lessen contract failure and to integrate "lessons learned" in future refinements to the RPS procurement process.

With regards to the complexity of the RPS program, it is important to note that procurement on such a large scale is a complex exercise and SB 1078 is very prescriptive with respect to the RPS program elements the CPUC needs to implement. Having said that, I support the current CPUC efforts to aggressively pursue the following streamlining measures, such as:

- Reducing the number of filings from the parties.
- Forcing the IOUs to procure on a calendar basis, which will ensure that the IOUs will file contracts with the CPUC by year end.
- Streamlining the Market Price Referent (MPR) calculation and disclosure process:
 - Refine the MPR methodology based on extensive input from the parties.
 - Increase the transparency of the MPR calculation.
 - Change the process for publicly releasing the calculation so that it does not impede the solicitation process.

During 2006, I am committed to revisit and refine the RPS procurement mechanisms developed in 2004, including examining (1) the bid evaluation process, (2) standard contract terms and conditions, and (3) the transmission cost adder methodology.

Further, I believe that my experience in both the Government and the private sector has provided me insight in to how to streamline processes and procedures. I am committed to improving our RPS program to make it simpler, more efficient, faster and, most importantly, more effective. The objective of a Renewable Portfolio Standard is to increase the use of renewable resources to meet our state's energy needs. Any process or procedure that deters us from that objective must be modified or eliminated.

In September 2005, I joined my colleagues in issuing an Order Instituting an Investigation (I.05-09-005) to assess and resolve transmission bottlenecks that are impeding the development of renewable resources consistent with the RPS goals. The scope of the proceeding will initially focus on four critical path items:

- Cost recovery issues raised by Public Utilities Code (PUC) § 399.25.
- Streamlining of the transmission permitting process where possible.
- Coordinating RPS procurement with transmission planning generally.
- Identification of "low-hanging fruit" opportunities, defined as transmission infrastructure investments by IOUs, that do not require a Certificate of Public Convenience and Necessity (CPCN) or a Permit to Construct (PTC).

Below is a brief description of what actions we have undertaken pursuant to each of these items as well as additional context where necessary.

1.) Cost recovery issues raised by Public Utilities Code § 399.25:

This subsection of the Public Utilities Code provides a “backstop” cost recovery mechanism whereby the costs associated with transmission facilities built to access renewable resources can be recovered through retail rates in those circumstances where the costs of these facilities are not approved for recovery through FERC jurisdictional rates. Implementation of this backstop mechanism is a critical step in facilitating transmission capacity expansions to support renewable resource development, particularly in large resource areas like Tehachapi and the Imperial Valley. The current schedule anticipates a draft decision to be issued in April with a final decision voted out in May.

2.) Streamlining of the transmission permitting process:

In developing the priority issues to be addressed during this proceeding, a number of parties expressed their discontent with what is perceived as an overly cumbersome and time-consuming CPCN/PTC approval process. To address this issue, the Commission has conducted an internal review of the CPCN/PTC application process and is developing ways to streamline the process. These changes will be further developed and refined during a workshop, tentatively scheduled for March 23, 2006, to solicit stakeholder feedback.

3.) Coordination of RPS Procurement and Transmission Planning:

This area encompasses a number of sub-issues each of which is viewed as critical in achieving the RPS goals. The sub-issues that fall within this category include:

- a.) Identifying and resolving transmission barriers to RPS signed contracts.
- b.) Improving the transmission ranking cost reports and the associated bid adders used to develop and assess bids in the RPS solicitation process.
- c.) Encouraging the ISO to include renewable goals in its planning efforts.
- d.) Using the results of the RPS solicitations to guide a more comprehensive and collaborative process to address areas in need of transmission upgrades and transmission project development.

In December 21, 2005, the Commissionh issued a ruling directing the Investor Owned Utilities (IOUs) to file RPS transmission status reports providing an overview of the permitting status, interconnection queue status, and transmission requirements of the projects with which they have RPS contracts. These reports were filed on January 25, 2006. Review of the reports indicated that SCE has ongoing concerns with the

implications of the CAISO queuing process on the ability of projects with which they have contracts to move forward. The Commission has actively encouraged SCE and the CAISO to work together to resolve these issues, which appear to revolve around the manner in which SCE assigns costs to renewable projects that are lower in the CAISO queue but have earlier online dates than higher queued projects. The technical staffs of SCE and the CAISO have met and appear to be making excellent progress resolving these concerns.

4.) Identification of “low-hanging fruit” opportunities:

Both PG&E and the CAISO have indicated to the Commission that they believe there are renewable projects that can be implemented without new, long-term transmission investments. Given the amount of time it currently takes to build new transmission facilities, utilities need to identify transmission infrastructure investments that would facilitate RPS projects but that do not require a Certificate of Public Convenience and Necessity (CPCN) or a Permit to Construct (PTC) and begin constructing those facilities.

To investigate this matter, the utilities have been required to file reports indicating where they believe these opportunities exist. If such opportunities are available, it is critical that we understand why such projects are not being exploited through the existing RPS solicitation process. Our review of this matter is ongoing. To the extent that the outcome of this review suggests changes to the RPS solicitation process, we should move swiftly to make those changes.

Do you believe that the commission has the authority to allow renewable energy credit trading (i.e., unbundled from energy) to be used for purposes of compliance with the Renewable Portfolio Standard? If so, please cite those provisions of law that authorize such trading.

In D.05-011-025, I voted, along with my colleagues to affirm our position that it is within our authority to explore the potential use of unbundled or tradable renewable energy credits (RECs) for purposes of RPS compliance. We noted in that decision that unbundled and/or tradable RECs may play an important role in providing the “flexible compliance mechanisms” outlined by SB 1078. In this decision, we also observe that the Legislature has, at times, contemplated further articulating its preferences for how an unbundled/tradable REC framework should develop in California.

I believe that any uncertainty regarding the CPUC’s authority hinders, rather than promotes, the development of renewable energy resources in this state. To the extent that there could be greater clarity provided by the Legislature with respect to the ability of the Commission to allow the use of RECs for compliance with the state’s RPS program, I welcome such a move. I recognize that the use of unbundled and/or tradable RECs is a highly contentious issue that requires careful deliberation. To that end the Commission,

by a 5-0 vote, has initiated a proceeding (R.06-02-012) in which the points of contention, including the legal authority of the Commission to authorize the use of unbundled or tradable RECs, may be further explored.

What specific actions do you support to implement the requirements of the RPS for energy service providers?

On November 18, 2005, the CPUC issued D.05-11-025, which stated that the Commission has the discretion under the RPS statute to determine the manner in which energy service providers (ESPs), community choice aggregators (CCAs), and small and multi-jurisdictional utilities participate in and comply with the RPS requirements. I voted in favor of this decision. Specifically, the Commission requires all entities to comply with the fundamental aspects of the RPS program, including procuring 20% of their retail sales from renewable energy sources by 2010, increasing their procurement of renewable energy by at least 1% of their retail sales per year, and reporting to the Commission on their compliance with these requirements. I am committed to holding ESPs and CCAs to this standard. It is simple – CCAs and ESPs must procure the appropriate amount of renewable resources or are subject to sanctions.

In addition, I support the Commission's stated intent to explore policy options for allowing procurement entities that would purchase renewable energy on behalf of ESPs, if any such proposals are developed. I think the Commission should also explore allowing unbundled renewable energy credits (RECs) to count for RPS compliance purposes in the future. Finally, the Commission signaled its openness to and requested comments on how short-term (less than ten years) contracting could be utilized by ESPs, CCAs, and small and multi-jurisdictional utilities, to satisfy RPS requirements. The Commission is actively seeking comments on the above issues and expects to issue several decisions in 2006, thus ensuring ESP participation in the RPS program.

Again, I believe that the RPS as outlined in SB 1078 is a requirement on actual purchases, not on contracted capacity. This is the simple measure of success and one that I intend to see is achieved. The Commission is actively seeking comments on the above issues and expects to issue several decisions in 2006. Just as we designed a RPS procurement process for IOU's that recognized their regulatory structure, including the cost recovery guarantees of AB 57, we must design an RPS procurement requirement for ESP's and CCAs, recognizing their differing regulatory and market structure, the most notable difference being that they are not guaranteed cost recovery, as the IOUs are.

Natural Gas

7. Natural gas has increasingly become the state's fuel of choice for generation of electricity. Several companies have proposed siting new liquefied natural gas facilities in, or close, the state. At the same time, natural gas prices have become volatile and have increased in recent months, raising concerns about over dependence on that fuel source and its impacts on utility bills.

What steps do you support to ensure that the state does not become over reliant on natural gas and to protect against price volatility for the gas usage projected to take place in the state? What steps do you support to ensure that those supplies the state does use are used as efficiently as possible?

What steps do you support that will help address the air quality and other adverse environmental impacts of fossil fuel usage?

I support the Energy Action Plan (EAP), which the Commission has adopted to address these concerns. In this regard, the Commission is also attempting to reach the State's goal of relying upon renewable energy for meeting 20% of the State's demand for electricity by 2010. I support the goal of 20% renewables by 2010, as well.

In pertinent part, the EAP provides:

"6. Natural Gas Supply, Demand, and Infrastructure

To ensure reliable, long-term natural gas supplies to California at reasonable rates, the agencies must reduce or moderate demand for natural gas. Because natural gas is becoming more expensive, and because much of electricity demand growth is expected to be met by increases in natural gas-fired generation, reducing consumption of electricity and diversifying electricity generation resources are significant elements of plans to reduce natural gas demand and lower consumers' bills. California must also promote infrastructure enhancements, such as additional pipeline and storage capacity, and diversify supply sources to include liquefied natural gas (LNG)."

Price volatility

I voted in favor of giving broader flexibility to the California utilities so that they could utilize their expertise in entering into financial hedging arrangements to protect their ratepayers from the price volatility of natural gas. I support additional storage facilities in California, which enhances reliability of natural gas and provide physical hedges against price volatility. Just recently, I oversaw the timely approval of Lodi Gas Storage's request to construct additional storage capacity in California.

The need for LNG

I believe that even with these goals to become more efficient and reduce demand for natural gas, there is no question that we need LNG. While the policies of the Commission as articulated in the EAP will decrease California's need for fossil fuels, it also recognizes that natural gas is the fuel of choice of the fossil fuels, because it produces much less pollution than oil or coal. That is why electric generation in California does not use oil or coal, and in many parts of California, industry and agriculture use natural gas for fuel instead of oil.

Even when California reaches its goal of 20% renewable generation by 2010, there would still be a need for natural gas for a substantial part of the other 80% of the generation. Moreover, in addition to needing natural gas supplies for electric generation, California needs significant natural gas supplies for heating residential homes and businesses, fuel for industry and agriculture, and other commercial uses. Therefore, even with significant increases in natural gas prices, California will continue to need reliable supplies of natural gas.

There is a wide consensus among most natural gas experts that the least costly production of natural gas in North America has already been developed. The Department of Energy's Energy Information Administration (EIA) recently found that "[a] large proportion of the onshore lower 48 conventional natural gas resource base has been discovered. New reservoir discoveries are expected to be smaller and deeper, and thus more expensive in riskier to develop and produce."⁵ The EIA further reported that with U.S. natural gas production declining, imports of natural gas must rise to meet increasing domestic consumption. However, the EIA forecasted that net imports from Canada will "fall from 3.3 trillion cubic feet in 2004 to 1.5 trillion cubic feet in 2019."⁶ For this reason, the EIA stated that "[m]ost of the projected growth in U.S. natural gas imports is in the form of LNG."⁷

Since production of natural gas in California currently meets less than 14% of California's natural gas demand, California imports more than 85% of its natural gas supplies from out-of-state sources. Approximately 25% of California's demand for natural gas has been met by imports from Canada and the rest from domestic production. Due to the forecasted decrease in imports from Canada and the decrease in domestic production, California needs additional sources of natural gas supplies. I therefore agree with the Commission's views that LNG is necessary in order to bring additional supplies of natural gas to California to meet our needs and to put downward pressure on the prices of natural gas and electricity.

⁵ Department of Energy, Energy Information Agency, *Annual Energy Outlook 2006* (February 2006), p. 86:

⁶ *Id.*

⁷ *Id.*

8. **The siting of new liquefied natural gas facilities in the state has become an issue of some controversy. Please describe your views on the siting of new LNG facilities along the California coast. Does the commission have a regulatory role in the siting of these facilities?**

While I support allowing new LNG imports terminals along the West Coast, including California, this does not mean that LNG facilities must be sited anywhere along the California coast that an LNG project sponsor chooses. LNG has the potential to be hazardous to surrounding areas. Therefore, LNG import terminals are best sited in remote areas, and away from densely populated areas. I voted in favor of the Commission's position at the FERC, where the Commission has opposed and sponsored evidence against Sound Energy Solutions' proposed LNG import terminal at the Port of Long Beach.

To evaluate the risks posed by the proposed LNG import terminal for the Port of Long Beach, the Commission's Consumer Protection and Safety Division (CPSD) entered into a contract with an expert with 30 years of experience on LNG safety issues. After a thorough study of the risks at that site, he recommended that LNG facilities should not be sited in Long Beach. He also recommended that LNG import terminals should not be sited within three miles of densely populated areas when there are safer alternative sites in more remote areas. He further reported that there are proposed LNG projects, which would be more than 10 miles offshore along the California coast, and these projects would be at safer sites. The Commission sponsored his expert testimony and other testimony and exhibits at the FERC, and the Commission has filed a motion for evidentiary hearings. I am deeply concerned about the safety of the people and businesses in close proximity to LNG import terminals, and the Commission is prepared to litigate these safety issues.

The Commission's regulatory role in the siting of LNG facilities

The Commission does not have jurisdiction to decide the siting of LNG import terminals. This lack of jurisdiction results from the amendments to the Natural Gas Act, 15 U.S.C. §§ 717, *et seq.*, which Congress added in section 311 of the Energy Policy Act of 2005. Nevertheless, the Commission still has a significant regulatory role with regard to the siting of LNG import terminals in California. This is due, in large part, to the Commission's regulatory authority over the intrastate pipelines, which would have to interconnect with and transport the natural gas supplies from an LNG import terminal. In addition, the Commission has the safety expertise and safety responsibilities concerning natural gas facilities, including LNG facilities, in the State of California. Therefore, the Commission continues in its historic role of representing California's safety interests before the FERC and other forums. I fully support such an intervention.

The Commission's safety jurisdiction over the interconnecting intrastate pipelines:

- The CPUC has authority under state law over the safety of all public utilities in the State of California. (*See, e.g.*, California Public Utilities Code §§ 701, 761, 768; *see also San Diego Gas & Elec. Co. v. Sup. Ct.* (1996) 13 Cal. 4th 893, 923-25.)
- Any LNG import terminals in California would have to interconnect with the intrastate pipelines of California utilities, which the Commission regulates. Therefore, the Commission's natural gas pipeline safety experts would be involved in ensuring the safety of additional intrastate pipelines facilities or expansions, which would be necessary for the proposed LNG import terminal.
- The Commission's pipeline safety inspectors are certificated by the United States Department of Transportation (DOT) under the Pipeline Safety Act (49 U.S.C. §§ 60104, 60105) to inspect and enforce pipeline safety regulations. The DOT has provided free training to the Commission's natural gas pipeline safety engineers and provides up to 50% of the funding of the Commission's pipeline safety program. The Commission provides additional training to its safety experts to supplement the DOT's training.
- In section 311(d) of the Energy Policy Act of 2005, Congress also amended the Natural Gas Act by adding section 3A(d), 15 U.S.C. section 717bA(d), which provides that a "State commission" could inspect for safety problems involving an LNG import terminal once it is constructed. Congress' reference to a State commission is a defined term referring to the State commission which regulates natural gas companies. (*See* 15 U.S.C. § 717a(8).) Therefore, the Commission still plays an important role in safety of LNG facilities.

The Commission's requirements for the quality specifications of natural gas entering the intrastate pipelines:

- The type of LNG facility which may be sited along the California coast must have the capability of ensuring that the natural gas supply from the LNG facility will meet the quality specifications for natural gas that may be transported on the intrastate pipelines, which the Commission regulates. The Commission is currently reviewing the quality specifications and other LNG-related issues in its pending Commission Proceeding R.04-01-025.

The Commission's representation of the People of the State of California at the FERC:

- For more than 60 years, pursuant to section 307 of the California Public Utilities Code, the Commission has represented the People of the State of California before the Federal Energy Regulatory Commission (FERC) in matters involving the price, reliability and safety of natural gas and electric power. Under the Natural Gas Act,

Congress explicitly recognized the authority of the State commission, which regulates natural gas companies within the State, and Congress provided numerous rights for the State commission to participate before the FERC and seek judicial review of FERC decisions.⁸ In section 311(c) and (d) of the Energy Policy Act of 2005, Congress did not repeal these provisions. Congress gave the States additional rights by providing that the Governor could designate a State agency to consult with the FERC in an LNG case, and Congress also required that both the consulting State agency and the State commission must be given notice of a hearing on an LNG terminal application.⁹

- In light of the Commission's extensive experience representing California before the FERC and in appellate courts (either challenging FERC's decisions or defending them) and of the Commission's safety expertise in this area, the Commission has an important role in protecting California's interests in FERC proceedings involving the siting of LNG import terminals. The Commission has not only filed extensive comments on the draft Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) in the FERC proceeding involving the proposed LNG import terminal at the Port of Long Beach, the Commission has submitted hundreds of pages of expert witness testimony and exhibits as well.

9. The commission adopted a decision on the subject of telecommunications consumer protections. You supported this decision despite strong opposition from the Attorney General and consumer groups who asserted that it did not adequately protect consumers. *Please describe why you supported this decision. What steps do you support to establish consumer protections for telecommunications customers?*

At its heart this decision is not about whether to protect consumers but rather the best way to protect consumers. I am committed to consumer protection. I am committed to vigorous enforcement, and when carriers are found in violation, swift and immediate corrective action. Further, where necessary I am committed to significant and effective punishment.

We have many laws and rules governing telecommunications consumer protections. As laid out in Appendix D of our Bill of Rights Decision, there are a plethora of laws, rules, regulations and decisions that serve to protect consumers. I have compiled these rules into a useful reference document that now runs in excess of 100 pages detailing existing laws and rules that govern this aspect of our jurisdiction. I think that on balance, we need more emphasis on enforcement of existing laws, regulations, rules and decisions rather than the creation of new, detailed more prescriptive rules.

⁸ See, e.g., 15 U.S.C. §§ 717(b)&(c), 717a(8), 717c(e), 717d, 717(f)(2), 717p, 717r.

⁹ See 15 U.S.C. §§ 717b(e)(2)(B) and 717bA(b).

We need a clear prohibition against cramming regardless of whether the service is a communications related service or not.

We need an education campaign that will empower consumers to protect themselves in their dealings with telecommunications companies, one focused on consumers with limited English speaking ability.

We need effective consumer complaint processes that provide a useful and user friendly means of resolving problems between consumers and telecommunications providers we regulate.

We need better cooperation between all agencies charged with protecting consumers. This involves cooperation with the Attorney General, local District Attorney's, other state law enforcement officials and federal agencies such as the FTC and the FCC.

We need to explore the issue of in-language and devote considerable effort to understanding the difficulties of recent immigrants and consumers with limited English proficiency so that we can better protect them from abuse.

Our Bill of Rights decision does all of this.

I believe that the best ways for this Commission to protect consumers are through:

- Vigorous and effective enforcement in whatever venue is best suited to stop the wrongful conduct by a carrier, whether at the CPUC, state court in a civil or criminal case, or before a federal agency like the FTC or the FCC.
- A complaint process that is responsive to consumers and provides them with an avenue to seek satisfaction, with the Commission help, when they have a complaint regarding their telecommunications service.
- Empowering consumers through a proactive consumer education program that educates consumers in plain language, and in their own language.

The Bill of Rights decision we adopted is significantly better than the proposed decision that was issued at the end of last year. Of the 23 consumer initiatives in the decision, there are five specific areas where I obtained improvements:

- The inclusion of anti-cramming rules
- Responsive and effective complaint resolution initiatives
- Enhanced Enforcement
- The ability of the AG to use violations of these rules in their actions against carriers and,
- Further investigation related to in-language issues.

The decision includes, at my insistence, a rule that prohibits placing unauthorized charges on a consumer's bill. Carriers are now required immediately to remove any

unauthorized charge from a consumer's bill unless persuasive proof is provided that the charge was indeed authorized. Otherwise, we will take enforcement action directly against the billing carrier. Holding billing carriers responsible for what they allow in a consumer's bill enlists their support in protecting the integrity of that bill and in policing the behavior of their business partners

The decision includes steps to make our informal complaint process more responsive to consumers and more effective, particularly for communities of limited or non-English speaking consumers. Community Based Organizations (CBOs) are an important part of that process and I support developing a special relationship between the CPUC and CBOs in order to increase the accessibility of the informal complaint process to the communities these CBOs represent. I am also working to ensure that telecommunications carriers provide enhanced access to CBOs in order to facilitate the resolution of consumer complaints that consumers bring to the attention of CBOs.

We now have the enhanced enforcement capabilities to stop abusive behavior by carriers and we will rely on increased cooperation with local law enforcement personnel. I met with the Attorney General's office several times to discuss the issue of their ability to enforce consumer protections under general consumer protection laws and I made certain that those concerns were addressed in the revised decision that I supported at the March 2 Commission meeting.

I insisted that the Decision clarify that law enforcement agencies may use the rules and regulations in Part 2, 3 and 4 of General Order 168 to form the predicate for civil or criminal violations of consumer protection laws. In addition, I am committed to the Commission taking an active role in bringing violations of federal law, rules and regulation to the appropriate Federal agencies, such as the FCC and the Federal Trade Commission.

I have attached my full comments that were delivered prior to my vote in this contentious matter. I believe that these comments provide a useful insight into my reasoning in this case and my views regarding the strong and active enforcement of the myriad of laws and rules that apply to the protection of consumers in the telecommunications area.

10. **The availability of broadband infrastructure and access is becoming an equity, economic development, and revenue issue in state government. The Commission recently released a draft report on broadband deployment in California which observed a "digital divide" among the state's population based on ethnicity and income. *What specific steps do you support as a commissioner to address this digital divide?***

I am particularly pleased that the Commission agreed to my request to earmark at least \$5 million of the California Emerging Technology Fund (CETF) to support telemedicine applications that serve California's underserved communities, particularly those that serve rural areas of the state and those that serve a large number of indigent patients in their approvals of the merger of AT&T/SBC and MCI/Verizon. This is precisely the type of access to advanced telecommunications services that will improve the lives of these Californians and provide long lasting benefit to this state. I think that it is very important to include this important aspect into the charter of the CETF.

Further, I urged the broadening of the scope of the CETF to include more than just the development of broadband infrastructure so that it includes adoption and usage as well. I am glad to say that the Commission provided this broader mandate to the CETF. In the Commission's Broadband Report, we called for new public policies to assist lower-use communities with broadband infrastructure and access. Specifically, the report called for the provision of funds to encourage public/private partnerships for the deployment of broadband in lower use areas and communities. The CETF can be part of just such partnerships.

Providing access to broadband requires not just the availability of the underlying broadband network infrastructure, but also encompasses the notion of affordability and the access to the technology needed to make use of the underlying broadband infrastructure. Without computers and computer literacy neither availability nor access will ensure use. It is low usage that is at the heart of the digital divide. It is my hope that the CETF will consider the possibility of joining private/public partnerships to develop community broadband access points that provide these necessary elements to underserved communities.

I take very seriously the divide between the "haves" and "have nots" in California, the immediate very real effects of broadband deployment on this divide and the long term potential for deepening the divide even further.

The Commission has developed information that shows:

- Only 10% of people with disabilities have Internet access, while 38% of non-disabled households have access.
- A widening disparity between urban and rural populations, increasing 10 – 15% in the three years between 2000 and 2003;

- A gap of 32 to 39% in Internet access between households with incomes of at least \$30,000 per year and households of less than \$30,000 per year.
- Anglo and Asian households are twice as likely to have broadband as African-American and Latino households.
- Income is the single greatest indicator of whether or not a household has access to the Internet and has access to broadband.

The Commission is attacking this problem on all possible fronts, including:

- Taking advantage of recent merger activity for the benefit of advanced services in California, the Commission established the CETF, as discussed above. The CETF is funded by \$60 million - \$15 million from Verizon and \$45 million.
- On March 15 2006, the Commission established broadband over power line (BPL) policy, thus clearing the way for BPL development and increased competition to the broadband market and greater access to broadband in many areas of the state.
- The Commission implements AB 140, which provides telecommunications connectivity to areas in California which have not had access to telephone service in the past.
- The Commission continues to manage and promote the California Teleconnect Fund (CTF), which, pursuant to SB 720, funded installation expenses for advanced services to eligible California entities in the past year. This program is in addition to the CTF's ongoing role of subsidizing telecommunications used to access advanced services for California schools, libraries, community organizations and public health care.
- The Commission is on record as supporting AB 1458 (De La Torre), a bill which would expand funding for the Digital Divide Grant program to allow funding of community technology grant programs in the foreseeable future. This bill is currently in the Senate Appropriations Committee suspense file.

One area that needs to be examined further is the technologies funded by the CTF. Right now we do not allow funding of service outside of our jurisdiction, such as DSL, Cable Modem and many wireless broadband technologies. However, recent FCC and Court decisions have made it clear that internet access technologies are beyond our jurisdiction. This was a development that I do not think was explicitly contemplated by the Commission in 1996 when it adopted the CTF. At that time the Commission listed several technologies the CTF would fund and then said they would also fund their technological equivalents. I believe that the Commission should address the limitations we

place on the technologies we fund through the California Teleconnect Fund. Jurisdictional issues should not prevent California schools, libraries, rural healthcare facilities, and Community Based Organizations from gaining access to the broadband technologies that best fit their needs.

11. **On April 15th, the Los Angeles Times reported that the commission voted to withdraw its legal challenge to federal preemption of states in so-called "voice over internet protocol" services, to reverse its earlier position on this issue, and instead to support FCC preemption of states in this area of regulation. How did you vote on each of these issues? Please explain the reasons for your vote. Do you believe that states have the authority to regulate VoIP services?**

I was appointed by the governor to the CPUC on May 2, 2005 and, as such, did not participate in the Commission's decision to withdraw its appeal of the FCC VoIP preemption decision.

As a general rule, I do not support giving up state jurisdiction. However, we must recognize that there are limits. Our jurisdiction in telecommunications is an outgrowth of Federal law - the Telecommunications Act of 1934 as amended by the Telecommunications Act of 1996 - and is generally not derived from our jurisdiction under the U.S. Constitution.

The authority of the state to regulate VoIP services is currently unclear. The FCC has preempted state regulation of VoIP, arguing that it is an interstate service and that the jurisdictional nature of individual calls cannot practicably be determined and hence, under federal law, is subject to federal jurisdiction. This matter will be settled in court. If the courts rule that VoIP shall be subject to state regulation, or that some aspect should be, I am committed to carrying out our jurisdictional responsibility. If the courts rule that the FCC is correct and VoIP is indeed subject to Federal Jurisdiction, I am committed to working with the FCC to address the complex regulatory issues raised by VoIP.

There are three areas of particular concern to me regarding VoIP:

- Provision of 911 Service,
- Consumer Protection, and
- Maintaining funding for Universal Service.

First, since last spring when the Commission issued its decision on VoIP, the FCC has stepped forward with important new rules regarding the provision of 911 by VoIP service. I have met with FCC Chairman Martin and came away convinced of his determination to assure that VoIP not undermine the nation's emergency response systems. I will continue to be a strong advocate for strong 911 rules for VoIP providers.

Second, regardless of limits to our jurisdiction, I support protecting consumers of VoIP from abuse, fraud, and misrepresentation. Consistent with my views, and the direction of the recent Consumer Bill of Rights decision, if the Commission believes that a VoIP provider is abusing consumers and is engaging in illegal activity, I will support the Commission's cooperation with local law enforcement and/or federal agencies to go after these miscreants. Just because we may not have the ultimate jurisdiction to adjudicate allegations, does not mean that we cannot protect consumers. We can use our expertise and experience to seek redress for California consumers in whatever venue is available.

Finally, it is important, at both the state and federal levels that we take steps to protect our ability to fund universal service. It is important that we address the issue of bypass.

12. *What actions do you support to ensure that state programs funded by surcharges on telecommunication rates are not "bypassed" through other technologies and that program funding isn't decreased as a result of this bypass?*

The state programs funded by surcharges on telecommunication rates are important programs supported by the Legislature and the Commission to promote universal service. Maintaining a robust funding base is a priority of mine. Just like a robust and growing tax base is key to allowing the state to carry out its many programs, a robust and growing intrastate revenue base is vital to our ability to continue funding these important universal service programs.

To date, we have not seen significant bypass of the surcharges. In fact the billing base is estimated to be \$20.6 billion for the 2005-2006 fiscal year. That level has proved sufficient to support the current (2005-2006) budget and the proposed budget (2006-2007) at a surcharge level of 3.9%. This is a reduction from the 2005 surcharge levels of 4.56%. This surcharge rate reduction is due to continued growth in the billing base and an effort to reduce the current over-collection in the various accounts (resulting from past underestimates of the continued growth of the billing base) to a more reasonable, cash reserve level.¹⁰ This reduction in the surcharge occurs despite the increased funding proposed by the Governor for the 2006-2007 fiscal year.

The largest downward pressure on the billing base over the past several years has not been bypass, but rather, the rapid decline in rates, particularly in the long distance market, but also in the wireless market. However these declines in revenues, due to price cutting, have been offset by the explosive growth in intrastate wireless revenues.

¹⁰ For 2005-2006 the cash balances in the various accounts is \$150.3 million. The Commission's target is to reduce this cash balance to \$83.1 million by the end of the 2006-2007 fiscal year.

Wireless consumers now pay about 60% of the total costs of these universal service programs.

However, as the wireless market matures, the market becomes more saturated, and competition increases price pressures, the growth of wireless will slow down. We have an opportunity, if we act soon, to create a funding mechanism that will enable us to continue to assure our ability to fund key universal service programs.

There are several means of creating a more stable funding source that are less susceptible than our current revenue based model to bypass by new technologies, including VoIP. Most of these involve a move to a charge by telephone number or "connection." There is significant work that needs to be accomplished before we can determine the best approach. However, I am cognizant of the possible regressive effects on low income consumers that a per-number or per connection approach might have. However, that impact might best be addressed through targeted support via the existing or expanded lifeline programs targeted directly at low-income Californians.

The Commission is currently in the process of initiating proceedings for the purpose of evaluating the current five telecommunications public programs, including California High-Cost Fund A, California High-Cost Fund B, California Teleconnect Fund, the Deaf and Disabled Telecommunications, and the Universal Lifeline Telephone Service program. These programs will be evaluated for:

- Their effectiveness of meeting programs' goals;
- Program improvement, if any, in light of technological advancement and changing demographics in California; and
- The appropriateness of the current funding mechanism so that the state public programs funded by the surcharges would not be adversely impacted by the "bypass."

If the results of the proceeding indicate that program and funding changes are desirable and are in the best interest of the public in California, and existing laws are not responsive to these recommended changes, we will seek legislative support an action to enable us to achieve our universal service goal. In particular, I think the Commission needs to review two aspects of universal service programs need review: expansion of the service funded by the CTF; and thorough review of the High Cost Fund-B.

First, we must review the current CTF to, as mentioned above, see if the program can be expanded to include funding for DSL and other broadband technologies. I do not believe it was the intention of the Commission to exclude such technologies from funding and such exclusion appears counter to the purpose of the program to make advanced

telecommunications services available to schools, libraries, and rural health care facilities.

Second, the Commission must review the High Cost Fund B program. When this program was initiated in October 1996, the Commission called for the cost models underlying the level of subsidy for high cost areas to be adjusted, or at a minimum, reviewed every third year. Such a review should have occurred in 2000 and in 2003. On my watch, we will perform such a review as part of a general broader review and investigation of the program.

In my mind, everything is on the table with respect to the California High Cost Fund B program. This program, if better managed and more accurately targeted, could result in significant savings that will reduce pressure on the existing funding base.

Water

13. **Under the State Constitution and various provisions of state law, the commission is charged with the economic regulation of investor owned water companies and water systems. You have indicated a special interest in the commission's actions in this area.**

Last fall, the commission adopted a Water Action Plan" that established a series of policy goals for regulated water systems. Those goals included maintaining the highest standards of water quality, strengthening water conservation; promoting water infrastructure investment, assisting low-income ratepayers, streamlining CPUC regulatory decision-making, and setting rates that balance investment, conservation, and affordability.

What specific steps have you taken to implement the Water Action Plan?

On March 28, 2006, from 10:00 a.m. to 4:00 p.m. I will chair a symposium titled "The Regulatory Challenge Linking Water and Energy"

The symposium will support Water Action Plan objective to Strengthen Water Conservation Programs by addressing options to mutually improve the efficiencies of California's water and energy systems and identify ways that California's water and energy utilities can work together to more effectively manage water and energy use. Specifically, this symposium will discuss forward-looking research and regulatory policies that can support mutual water and energy efficiencies.

The symposium is co-sponsored by the California Energy Commission, the California Department of Water Resources, the California Independent System Operator,

and the California Public Utilities Commission, and will be held at the California Energy Commission Hearing Room A, 1516 Ninth Street, Sacramento, CA.

As the assigned Commissioner on all formal water general rate proceedings, I issue a scoping memo at the start of each case that directs the filing utility to address the issues of water quality, water supply reliability conservation and low income assistance on a district specific basis. This has allowed the Commission to address problems and develop responsive solutions that are appropriate for each district. So far, we have established water conservation and low-income programs for the following water utilities: (a) all districts of three of our nine Class A water utilities (those that file formal applications); (b) two regions of a fourth utility; and (c) one district of a fifth utility. We presently have active proceedings to provide conservation rates and low income programs for all of the remaining Class A utility districts. These proceedings will be completed during 2006. We will then start to address the smaller regulated systems.

How is the Commission's plan, and its implementation, affected by the Governor's proposals for water infrastructure investment through general obligation bonds and retail water fees?

Historically, Commission-regulated water utilities (except for some of the very small systems) have maintained their systems properly and provided necessary infrastructure replacement, maintaining high water availability and water quality over the years, through Commission-set cost-based retail water fees. Our smaller water companies, of which there are several hundred, have not been able to have the resources necessary to make the significant capital investments needed to maintain a robust water infrastructure. Access to funding, through bonds, for these smaller water companies could enable them to improve the safety and reliability of these smaller water systems.

California is facing substantial growth and Commission regulated utilities need to be part of the process of addressing that growth. Additionally, increasing regulations governing water quality and safety have also increased the infrastructure requirements for all water utilizes investor owned and public. The Water Action Plan Objective to promote infrastructure investment looks to modify and expand the Commission's traditional successful approaches to meeting infrastructure needs. We are prepared to go forward with financing this infrastructure regardless of whether the bond funding is made available. However, such investment is not without significant cost and to the extent low cost funding is made available to Commission regulated utilities, the customers will directly benefit by paying lower rates.

It is important to remember that the 20% of retail water consumers that are served by utilities under our jurisdiction are taxpayers as well. To the extent that these consumers bear the burden of paying for these bonds, they should be granted access to

such funding. The Commission has in place regulations, that can assure that the benefits of financing from bonds accrue directly to the ratepayers and not to shareholders.

What steps has the Commission taken to coordinate its activities under the plan with those of the Department of Health Services Office of Drinking Water, the State Water Resources Control Board and the Department of Water Resources?

Department of Health Service Office of Drinking Water (DHS): The Commission has had a Memorandum of Understanding with DHS since 1987. Under that Memorandum we constantly exchange information about water quality, rates and infrastructure needs, and treatment and replacement timeframes for Commission-regulated systems. We invite DHS engineers to participate in our public meetings and accompany our staff on system inspections. We work directly with DHS and the utilities to meet DHS requirements for new testing and treatment technologies and provide the water utilities with the ability to pass-through DHS mandated testing costs to ratepayers to minimize any incentive to not comply with DHS or County Environmental Health mandates. As the Plan moves forward to address water quality issues, DHS will be intimately involved in the development of water quality guidelines and procedures.

State Water Resources Control Board and the Department of Water Resources: I am committed to working closely with these two agencies. I have discussed the Water Action Plan with Secretary Chrisman and with Lester Snow, Director of DWR. The Commission provided the draft Water Action Plan to the State Water Resources Control Board, DHS, and the Department of Water Resources (DWR) and modified the Plan as appropriate in response to their comments. We will coordinate closely with these agencies in their respective areas as we pursue implementation. The Commission and its utilities are already members of the DWR-initiated California Urban Water Conservation Council, for example. As noted above, DWR is partnering with us on our upcoming March 28 symposium on water and energy.

14. *Do you believe global warming is a serious problem? Do you support state level actions, such as limits on GHG emissions, to address global warming, or is this a matter best left to the federal government?*

Yes, I believe that global warming presents serious environmental and economic issues that need to be addressed. In the absence of federal policy and leadership, I support state level actions to address global warming, including limits on greenhouse gas (GHG) emissions. On February 14th of this year, I voted for the commission to set a load based GHG emissions cap on the regulated electric utilities. That effort will include coordination with other state agencies, and with other states pursuing similar programs. I support the GHG initiatives and support his efforts to significantly reduce California's GHG emission over the coming years and decades.

Given that the commission regulates only certain sectors of the economy, and that GHG emissions emanate from numerous sources, is the commission the agency in state government that should regulate those emissions?

I believe there are a variety of state agencies that are and could play a significant role in implementing policies and strategies to reduce GHG emissions. CalEPA and the CA Air Resources Board (CARB) are two clear examples. This commission's role is to ensure that the Investor Owned Utilities (IOUs) provide safe, reliable service at reasonable rates, and to promote the health of California's economy. To that end, it is increasingly clear that there are financial, as well as environmental, risks associated with GHG emissions. Electricity delivered by the IOUs to meet customer demand is a significant source of California's overall GHG emissions. This Commission is in a position to set policies to reduce those emissions. I believe it is essential that the CPUC do its part to ensure that the IOUs balance costs and economic risks associated with their energy resource portfolios and plans. I certainly do not consider the CPUC as *the* agency in state government to regulate emissions, but I do see the Commission as an agency that can assist in supporting and ensuring this state's leadership in that area through regulation of the IOUs especially given the effect that energy production has on the environment. California has a long history of leading on environmental issues, and this commission has assisted in meeting these goals through implementation of IOU focused-programs such as energy efficiency and the renewable portfolio standard. I see a similar role for us with the issue of climate change.

COMMENTS ON THE COMMISSIONS CONSUMER BILL OF RIGHTS DECISION

As is so often the case, today the specific vehicle around which policy debate ebbs and flows takes on a life of its own. So, too, is the case today of the so-called "Consumer Bill of Rights". Many view the alternative decision Item 28(a) as pro-consumer; while the proposed decision Item 28 is painted as opposed to consumer rights. It is a false proposition. Both decisions look to protect consumer rights while permitting the wonders of the marketplace to provide new, cheaper, better consumer opportunities. Each reflects the conviction of its proponents as to the best way to achieve that common objective.

I have been spared the bitter rhetoric of the past exchanges but not the obligation to give the matter my deep and careful consideration. Let me make a few observations in an attempt to add a newcomer's perspective to the discussion.

- 1) However we vote we abdicate no responsibility to protect consumers from the possible predations by carriers or other market participants. We recognize the abusive possibility of unfettered competition. The Commission is not closing its doors, rolling up its mandate nor turning out the lights. Our duty continues, and there will be no doubt, many succeeding examples of Commission intervention when consumers are abused or misled by inadequate disclosure of terms and conditions, predatory behavior, or unfair practices. However we vote, consumers will not be forever and unalterably abandoned to be abused, misled, slammed, crammed, or otherwise left adrift in the market. No matter

the comments of our critics, today this Commission adopts an activist agenda for reform.

- 2) Our actions today do not in anyway lessen or concede our jurisdiction in the area of regulation of any telecom activity. We remain vigilant and proactive, and indeed pledge to enhance our efforts in enforcement and education in order to empower reasoned choice. While we may be criticized for not enacting a plethora of new rules, we clearly articulate the standards of conduct and responsibility that we, and the citizens of California, expect from the carriers. Rules are the product of failed expectations. We will monitor complaints under new procedures and with increased resources. Bad practices will be exposed, violations investigated, facts will be adjudicated, sanctions levied, and the laws and rules protecting the consumer will be enforced. This Commission will not hesitate to enforce our standards and make public egregious examples of consumer abuse, including from this podium.
- 3) If we were to adopt the alternate, carriers will not flee California, go broke, fire management or cease to innovate or develop new services and products, though no regulation is without its costs.
- 4) Our task is to artfully get out of the way and let the market work its magic, while at the same time protecting the consumer from abusive excess.
- 5) Our goal is prospective, and there are parts of the reasoning in the proposed decision to which I do not fully subscribe. Some of the arguments put forward by the carriers are, quite honestly, fatuous. In addition, arguments about the validity of samples, surveys, and such talk miss the mark: the real question is, as a result of our decision today, will conduct that is unfair to consumers be demonstrably

reduced by our actions? Carrier practice is the key; practice implies regular or repetitive conduct, sanctioned or directed by the carrier — not just bad consumer service. Rules are appropriate for the former, publicity and consumer choice in the latter.

- 6) It is not just consumer protection with which we are concerned. Rather it is consumer benefit, and that includes the upside of new technology, choice, convenience, and price competitiveness. Our task is to balance both the legitimate concerns of our constituents, the consumers, and their opportunities. Absolutes are often easier to argue than balanced judgment. What you have today is the balanced judgment of three Commissioners sworn to do what is right for the consumer.
- 7) There is no “right” answer on which all reasonable people will agree. Those in the dissent today are every bit as sincere as the majority. They believe passionately in consumer welfare as we do but would go down a different path into a different garden.

The California Public Utilities Commission has a legislative and constitutional requirement to protect consumers from abusive, unfair and fraudulent behavior. I know each of my colleagues is committed to this mission.

I assure you, I am.

The question before us in this proceeding is not whether to provide such protection to consumers but rather how best to provide that protection. I believe that the best ways for this Commission to protect consumers are:

- A. Vigorous and effective enforcement in whatever venue is best suited to stop the wrongful conduct by a carrier, whether that is here at the CPUC, state court in a civil or criminal case, or even before a federal agency like the FTC or the FCC.

- B. A complaint process that is responsive to consumers and provides them with an avenue to seek satisfaction, with the Commission help, when they have a complaint regarding their telecommunications service.
- C. Empowering consumers through a proactive consumer education program that educates consumers in plain language, and in their own language.

I believe that the proposed decision before us is significantly better than the proposed decision that was issued at the end of last year. Though there are twenty-three consumer initiatives herein set forth, there are five specific areas where I needed to see improvements.

- The inclusion of anti-cramming rules
- Responsive and effective complaint resolution
- Enhanced Enforcement
- The ability of the AG to use violations of these rules in their actions against carriers and,
- Further investigation related to in-language issues.

First, the inclusion of a rule that prohibited the placement of unauthorized charges on a consumer bills is a key component of this decision and its inclusion is necessary from my point of view.

This decision makes it clear that it is the billing telecommunications companies' responsibility to not allow unauthorized charges and further clarifies that it is the responsibility of the billing carrier to immediately suspend collection of any charges that the subscriber says were not authorized. If the billing carrier cannot prove proper authorization the billing carrier shall remove that charge from the bill or, if the customer has already paid, refund the amount. Such a

clear and simple responsibility means that the consumer's risk is minimized, and more closely aligns the consumers interest with that of the carriers. .

We expect billing carriers to actively monitor the entities they provide billing services to in order to ensure that proper authorization is obtained and that their bills are not used to facilitate illegal cramming.

While the alternate decision before us today has a rule that seeks to prevent cramming by retaining existing rules governing the use of a bill for non-communications products and services, it does not address cramming of communications related charges. I prefer a rule that prohibits the billing for unauthorized charges regardless of whether they are communications or non-communications services.

Holding the billing carriers responsible for what they allow to be placed on consumer bills will enlist their support in protecting the integrity of the consumer bill and policing the behavior of their business partners. Excuses that it was a third party that caused an unauthorized charge to be placed on a customers bill, does not relieve the billing carrier from their obligation to immediately remove the charge from the consumers bills unless persuasive proof is offered that the charge was indeed authorized. Failure by billing carriers to adequately protect consumers by monitoring who the carrier performs billing services for, can lead to enforcement action directly against the billing carrier.

Second, I have worked very hard to ensure that the proposed decision includes steps to make our informal complaint process more responsive to consumers and more effective.

Consumers with a complaint about their telecommunications can contact the carrier directly or they may contact the Commission's Consumer Affairs Branch. However, many consumers contact local community based organizations for assistance in resolving their complaints with

telecommunications providers. This is particularly true in communities of limited or non-English speaking consumers. I have actively worked to see that CBOs will play an enhanced role in our complaint resolution process and will continue to do so. Community Based Organizations are important in assisting consumers with their complaints and we applaud their efforts, in particular the Communities for Telecommunications Rights or CTR. CTR is a statewide network of over 40 non-profit, community based organizations that provide telecommunications consumer education and protection to limited-English Speaking consumers.

This innovative, practical and effective consumer protection mechanism could provide greater benefits to California consumers and significantly aid the consumer complaint activities of the Commission if the Commission could develop a process that:

- utilizes the knowledge these CBO have about the telecommunications markets and the communities they serve,
- employs the trust such groups have with their constituencies and
- Harnesses their passion for helping consumers.

To achieve this, the proposed decision orders the Commission staff to develop a program that creates a special relationship between these CBOs and the Commission. The objective is to create a framework that gives CBOs working with the Commission to resolve consumer issues greater access to CAB personnel and develop a true partnership between these CBOs and the Commission in assisting consumers with complaints.

Just as the Commission is developing relationships with these CBO and formalizing roles that they could play in aiding the Commission's consumer protection programs, I seek to bring about such special relationships between

CBOs and telecommunications carriers. The Commission will facilitate interaction between CBOs and carriers that will foster greater responsiveness by providers and quicker and more effective resolution of consumer complaints. I am convinced that such relationships will bring significant benefit to consumers, particularly limited-English speaking consumers and other vulnerable communities who make up the constituencies of these CBOs.

The Commission has begun the process of developing such relationships already. On January 30, the Commission hosted a meeting in Los Angeles attended by myself and President Peevey that brought together representatives from major telecommunications providers, both wireline and wireless, representatives of Community Based Organizations, and senior members of the Commission's staff to begin the process of better utilizing the unique skills and dedication of CBO in assisting consumers resolve their complaints.

The proposed decision has calls for a significant increase in our capability to deal with complaints filed by the commission. The proposed decision calls for additional funding for updating our antiquated complaint database system and for the hiring of a significant number of new call center personnel. I strongly support this budget augmentation and have been and will continue to advocate with the administration and the legislature for adequate funding.

The proposed decision also calls for greater responsiveness of the carriers to the commission. It has specific sections that make it clear that carriers have an obligation to respond to information requests from Commission staff.

Additionally in order to facilitate the cooperation of carriers with staff, the proposed decision calls for the development of the ability for managers and supervisors in the Consumer Affairs Branch to contact senior managers, within each company, so that particularly troublesome or timely complaints can be addressed manager to manager.

Additionally we seek to develop, if practicable, the ability for real time, three-way conversations with CAB staff, the carrier and the consumer, in order to seek immediate resolution of the complaint.

Third, we must have effective enforcement.

Let me give you some examples of our successes with enforcement even in the absence of any new consumer protection rules. These are a few examples I gleaned from the Commission annual reports since 2000.

- **Cingular Wireless** -- fined \$12 million, and ordered restitution that could amount to another \$20 million for violating consumer protection laws that included failure to disclose important information.
- **Verizon Wireline** -- fined \$4.8 million for failing to comply with contract rules and submitting false and incomplete information.
- **NOS Communications** -- fined \$2.5 million and ordered to pay restitution to 1,400 consumers.
- **Talk America** - fined \$625,000 and paid an additional \$374,000 in restitution to 15,000 California consumers.
- **WorldCom.** - On July 20, 2000, the California Attorney General and the Commission jointly filed a civil complaint against WorldCom. On March 7, 2002, the Commission entered into a settlement agreement where WorldCom agreed to pay \$8.5 million in civil penalties. WorldCom also agreed to cease certain business practices that the Commission felt contributed to high levels of slamming and cramming complaints.
- **Long Distance Charges & Tel-Save**-\$136,000 in penalties and \$152,000 in restitution to 6,000 California consumers.
- **Telmatch Telecommunications** - revoked operating authority and fined the company \$1.74 million plus ordered \$5.5 million in restitution to California consumers.

- **VarTec Telecom** - ordered VarTec to pay \$80,000 in fines and, on behalf of its subsidiary, U.S. Republic, to provide restitution to 101 former customers who were slammed. .
- **Vista Communications** - fined Vista \$7 million for slamming and ordered \$215,000 in restitution to approximately 10,000 California consumers.
- **Pacific Bell, now AT&T.** In October 2000 levied a \$25 million fine against Pacific Bell for abusive sales practices and ordered changes to customer service practices.
- **Qwest** -fined \$20 million for unauthorized changes for long distance service - slamming - and for billing for unauthorized services - cramming.
- **SBC (now AT&T)** -- penalized \$27 million. The Commission adopted in which the company acknowledged billing problems and complaint reporting deficiencies.

The Commission can, and has taken, effective enforcement action against carriers. Such enforcement has resulted in real penalties and resulted in changed behavior to the benefit of consumers.

The proposed decision calls for an enhanced enforcement capabilities. This is no idle threat. Carriers are hereby on notice, our enforcement activities will be focused, effective and if necessary brutal, to stop abusive behavior by carriers. If it comes to the point where the Commission needs to take formal enforcement action to stop abusive behavior, we will do so with vigor and determination and in any venue where we think we can get the best outcome for consumers.

I fully support, in fact I insist, that the commission increase cooperation with local law enforcement personnel. We pledge to use our expertise, experience and investigation and information gathering ability to work with law enforcement officials that are developing and prosecuting cases.

Federal agencies, such as the FCC and the Federal Trade Commission enforce consumer protection laws and can pursue enforcement actions and remedies that are unavailable to the Commission. If the Commission finds that a carrier is violating a Federal law, regulation or rule, we can build a case and take that case, either informally or formally to the relevant federal agency. We can be an advocate for California consumers at these federal agencies in the same manner that we filed complaints with the Federal Energy Regulatory Commission with respect to manipulation in the wholesale electric market.

Fourth, I want to turn to concerns raised by the Attorney General's office that the proposed decision hampers the ability of the AG to build cases around violation of Commission rules. I point you to Conclusion of Law 11 (Eleven) which says that the rules and regulations contained in Part 2, 3 and 4 of General Order 168 may be utilized by law enforcement authorities to form the predicate for civil or criminal action in their enforcement of generally applicable consumer protection laws. This language is a crucial.

Fifth, I am concerned that folks with limited English proficiency and recent immigrants, who are unfamiliar with the U.S. telecommunications marketplace, can be particularly susceptible of abuse. I am concerned by the evidence of Greenlining and the Latino Issues Forum that minority customers are often targeted for fraudulent and deceptive communications in their own language by unscrupulous businesses that prey on this community.

That is why it is essential that our consumer educational efforts focus on consumers with no or limited ability to speak and read English. I think that it is key that we develop more information on special problems faced by consumers with limited-English proficiency. By the same token we do not want to create barriers to deployment of advanced telecommunications services to these same consumers. For those concerned that we are not dealing with the in-language requirement, it is important to note the extensive focus of the consumer

education program on these very same consumers. The education program will provide in-language materials so that these consumers are better able to protect themselves when dealing with telecommunications companies.

At its heart this decision is not about whether to protect consumers but rather the best way to protect consumers. All of us up here are committed to protecting consumers. Do not do us the disservice of belittling anyone's commitment to the well being of consumers because we differ about the means of ensuring that well being.

I am committed to consumer protection. I am committed to vigorous enforcement and when carriers are found in violation, swift and immediate corrective action. Further, where necessary I am committed to significant and effective punishment.

We have a great many laws and rules governing telecommunications consumer protections. As laid out in Appendix D there are a myriad of laws, rules regulations and decisions that serve to protect consumers.

My staff has compiled these rules into a handy reference for me that now runs in excess of 100 pages detailing existing laws and rules that govern this aspect of our jurisdiction. I think that on balance, we need more emphasis on enforcement of existing laws, regulations, rules and decisions than the creation of new, detailed more prescriptive rules.

We need a clear prohibition against cramming regardless of whether the service is a communications related service or not.

We need an education campaign that will empower consumers to protect themselves in their dealings with telecommunications companies, one focused on consumers with limited English speaking ability.

We need effective consumer complaint processes that provide a useful and user friendly means of resolving problems between consumers and telecommunications providers we regulate.

We need better cooperation between all agencies charged with protecting consumers. This involves cooperation with the Attorney General, local District Attorney's, other state law enforcement officials and federal agencies such as the FTC and the FCC.

We need to explore the issue of in language and devote considerable effort to understanding the difficulties of recent immigrants and consumers with limited English proficiency so that we can better protect them from abuse.

The proposed Decision does all of this. I think that between the two proposals before us the proposed decision, Item 28, strikes the best balance. I will support item 28, the proposed decision of President Peevey.

/s/ John A. Bohn

California Law Revision Commission Goal Statement

By

Sidney M. Greathouse

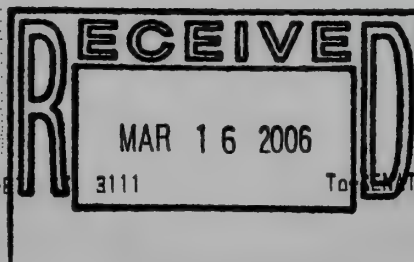
March 15, 2005

Prior to being appointed to sit as a member of the California Law Revision Commission, I spent the majority of my legal career practicing law as a litigator in Southern California. Although I was happy in my chosen profession, I always felt that I was missing out on something or that I somehow missed my calling as a professional. In May 2000, I changed jobs and took a position working as in-house counsel for a publicly traded company. Although I was giving up my litigation practice, I realized that my new position provided me with an opportunity to have a direct impact on corporate policy. As a self-proclaimed policy enthusiast, this new role set me on the path that ultimately led to my decision to seek an appointment with the California Law Revision Commission.

My general personal and professional goals have always been the same. I have always desired to learn something new every single day and to have the opportunity to teach something that I have learned to someone else. One of the quotes that I believe best summarizes who I am as a person is from Charles Kingsley: "[m]ake it a rule . . . never to lie down at night without being able to say, I have made one human being at least a little wiser, a little happier or a little better this day." Consistent with this belief, I work hard every day to have a positive impact on the lives of my family, coworkers and community. My participation in the Rotary Club of Calabasas/Agoura Hills also enables me to have an impact on the lives of the global community through the various sponsorships and programs that we support, including supporting polio vaccinations throughout the world and HIV/AIDS awareness drives in Africa.

In 2004, I actively sought out the opportunity to serve the people of State of California. Because of my desire to have an impact on policy, I was naturally drawn to the California Law Revision Commission. Following my appointment in April 2005, I have worked to gain a broader understanding of the history of the Commission and its relationship in carrying out the goals of the Legislature. My first few months with the Commission was a get acquainted period where I studied the practices and procedures of the Commission and developed a familiarity with my fellow Commissioners. As with any new opportunity, the unfamiliar setting was initially intimidating but I quickly realized that as a resident of the State of California, the work that I would be performing on the Commission would have an impact on all Californians, including myself.

My immediate and short term goals are to continue learning as much as I can about the subjects sent to the Commission for review, so that my contributions and review of the Commission's materials will make it easier for the legislative process to move forward. I spend a lot of my free time actively studying the Commission's past and present research materials. During my first year on the Commission, I have had the opportunity to learn more than I ever thought was possible about mechanic's lien laws and common interest development law. The added bonus has been the interaction that I have been able



to have with the concerned citizens who attend the Commission's meetings and provide real world feedback on how the recommendations that we make will impact their lives. My work on the Commission has also provided strengthened my beliefs in the legislative process. Over the next year, I intend to continue working closely with the Legislature, public interest organizations, business associations and private citizens who attend the Commission meetings in formulating reasonable recommendations that will truly accomplish the goal clarifying defects in the law so that the Legislature can make the appropriate reforms.

As a long-range goal, I would like to assume a leadership role on the Commission. As I learn more about the Commission and its role in the legislative process, I believe that my time on the Commission will be greatly enhanced if I receive the opportunity to serve in the vice chair and eventually chair the Commission. I have already expressed my interest in these positions to my fellow commissioners and will work diligently to gain their confidence and respect to entrust me with such an important role. In a leadership capacity on the Commission, I will be able to have a significant impact on public policy by working directly with members of the Legislature to accomplish the Commission's goals.

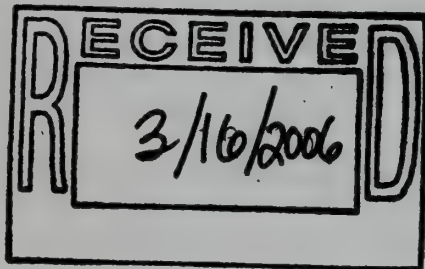
The California Law Revision Commission will always present me with new challenges. As we head into 2006 - 2007, I strongly believe that the Commission's work will become increasingly more important to the people of the State of California. These are very challenging times but our State has always responded to meet such challenges. As a member of the California Law Revision Commission, I have an obligation to every resident of the State of California to meet those challenges directly. Forever a student, I understand that I will always have something new that I need to learn. However, having a strong vision of the future and sincere desire to improve the lives of others will make my work on the Commission worthwhile.

If my appointment to the California Law Revision Commission is confirmed, I would hope to contribute to and continue the service historically performed by the Commission in working on the projects entrusted to it by the Legislature towards the goal of improving California law. In particular, I believe the Commission plays a valuable role by focusing the expertise of the dedicated staff and Commissioners on the study of technical and complex areas of the law and improving it, as necessary, by drafting statutes for legislative consideration that are clear and logically organized. In doing so, it is important that the Commission provide an opportunity to all those concerned with an area of law to provide input, while remaining neutral and objective, in perception and reality, in carrying out its work.

In the short term I hope to continue to provide assistance with the projects already assigned to the Commission, building on the work already performed. Some of these areas -- e.g. mechanics lien laws and common interest developments-- have been quite complex, and I am determined to devote the effort necessary to be helpful in the crafting of the draft legislation and the accompanying comments.

My long-term goal would be to ensure that the work product of the Commission remains of the highest quality and that the work and processes of the Commission be regarded as objective and neutral, such that the Legislature would continue to view it as a valuable resource and entrust it with projects studying and drafting legislation to improve California law. This promotes the efficiency of the law-making process, allowing lawmakers to spend time on policy decisions, without expending time working out the myriad of technical issues and gathering information that can be collected and synthesized, as appropriate, for it by the Commission.

I would be most honored if the Legislature sees fit to permit me to participate in the Commission's work.



PAMELA L. HEMMINGER
MARCH 15, 2006

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March 16, 2006

The Hon. Don Perata
Senate President Pro Tem
c/o the Senate Rules Committee
The Capitol
Sacramento, California 95814

Re: Appointment to California Law Revision Commission: Statement of Goals

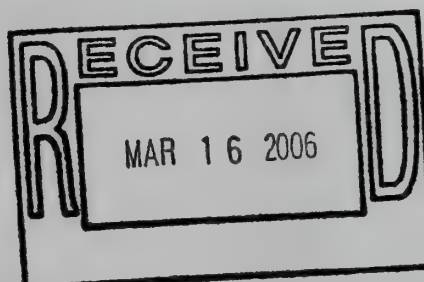
Dear Senator Perata:

Thank you for your letter of March 7, 2006. I am honored to have been appointed by the Governor, and I look forward to serving the State as a Commissioner. If confirmed, my short- and long-term goals for the Commission would be the same as they were when I served on the Commission during the Davis Administration.

First, I would work to continue the Commission's non-partisan, "neutral" posture in evaluating the issues before it. I believe that the reputation of the Commission as an objective voice and honest broker is of great value in the legislative process. Because of its history and posture, the Commission is able to expedite "clean-up", code reorganization, or "correction" projects that are not contentious (but could become so if misperceived), as well as help craft beneficial solutions on more directly contentious issues. The People of the State benefit from having such a voice, or filter, in the process.

Second, I would work to insure that the Commission produces the maximum value and output for the resources invested in it. In my experience, the Commission generates substantial work product using modest resources, which is part of the value that it provides to the State.

Third, I would work to insure that the matters on the Commission's docket as referrals from the Legislature continue to be given the highest priority on the Commission's agenda. The Commission exists to support and enhance the legislative process, and it is important to preserve the Legislature's confidence in the Commission's work.



SHEPPARD MULLIN RICHTER & HAMPTON LLP
The Hon. Don Perata
March 16, 2006
Page 2

I would be happy to elaborate upon the above outline if that would be helpful to the Senate Rules Committee's process.

Very truly yours,



David Huebner

BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE



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March 15, 2006

The Honorable Don Perata, Chairman
Senate Rules Committee
California Legislature
State Capitol, Room 420
Sacramento, CA 95814-4900

RE: March 22, 2006 Confirmation Hearing

Dear Senator Perata:

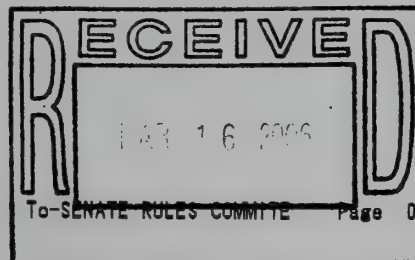
I am writing in response to your request for a statement in anticipation of the March 22 hearing on my confirmation as a member of the California Law Revision Commission. You have asked me to outline my short- and long-term goals for the commission.

In my view, the highest priorities for the commission in the short term are to complete work in progress in three major topics: mechanics lien law, common interest development law, and transfer-on-death deeds.

The project to reorganize and clarify mechanics lien law has been in progress for several years, and its development is closely followed and aided by a small but faithful group of stakeholders. The project is nearing its final stages, and I believe it is imperative that we bring it to a close before the commission loses Nathaniel Sterling, the staff member most knowledgeable on the subject, to retirement.

The project to consolidate, clarify, and improve common interest development law is at a critical stage, with two parallel bills pending in the Legislature (SB 551 and AB 770) that would implement the commission's recommendation. This is a topic of interest to a huge and growing number of Californians: Recent statistics compiled by Levy & Company, a private accounting firm, indicate that there are now more than 41,000 common interest development associations in California, comprising approximately 4.3 million units. I believe that the commission must continue to give this topic highest priority in order to allow our staff to work effectively with the Legislature while our recommendations are being considered.

The project to study transfer-on-death deeds is new to us but, judging from the input we have received from the public, it is a matter of intense interest to many. We have committed to report to the Legislature by January 1, 2007 our recommendation as to whether California should



The Honorable Don Perata, Chairman
March 15, 2006
Page 2

enact legislation to allow transfer-on-death deeds.

Closely related to this topic is our project to study the pros and cons of the no-contest-clause law. However, due to the relatively short deadline on the transfer-on-death deeds report, I believe the no-contest-clause report should take a slightly lesser priority in the short term. The same is true for our ongoing review of discovery improvements in other jurisdictions, and our upcoming report on whether there is a need to clarify availability of oral argument in civil proceedings.

For the long term, the commission has a calendar of 21 topics authorized by the Legislature for study. We should do everything we can to address them all in time. For the sake of efficiency, I believe we should concentrate first on the ones that we have already devoted resources to; these include trial court restructuring, legal malpractice statutes of limitations, assignments for the benefit of creditors, and award of costs and attorneys fees to prevailing parties.

I would also like to mention a couple of topics on our long-term calendar that are of special interest to me (perhaps because they come up so often in my opinion-writing work for the Attorney General's office): these are a project to coordinate the statutes governing special assessments for the public benefit, and a project to coordinate and update public-records statutes. Both of these bodies of law affect Californians' vital interests every day, both are complex and difficult to interpret, and both fall squarely within the commission's expertise. I very much hope that I will have an opportunity to address these topics as a member of the commission.

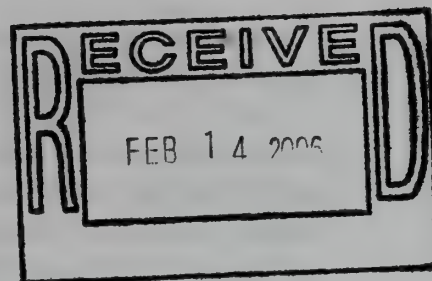
Finally, it is a personal goal of mine to do more to educate lawyers and the public about the commission's work, with the intention of drawing more widespread input. For example, almost every lawyer I know has had the experience of discovering some technical defect or obsolete reference in a statute, and few had any idea that they could help correct it simply by bringing it to the commission's attention. I truly love participating in the process of law improvement, and I want others to know how rewarding it can be, too. I hope your committee will find it suitable to confirm my appointment to the commission.

Sincerely,



SUSAN DUNCAN LEE
Deputy Attorney General

Richard D. Fantozzi, MD
Medical Board of California
1434 Howe Avenue, Ste 92
Sacramento, CA 95825-3236



February 10, 2006

The Honorable Don Perata
Chairman, Senate Rules Committee
State Capitol, Room 420
Sacramento, CA 95814

Attention: Nettie Sabelhaus

Dear Senator Perata:

Thank you for your letter of January 23, 2006 which included questions for my response for consideration by the Senate Rules Committee as members review my reappointment to the Medical Board of California. Enclosed are the questions and my responses.

Please call me at (619) 972-4259 if you have any further questions. Thank you for considering my reappointment to this important position.

Sincerely,

Richard D. Fantozzi, MD

Enclosure

1. What are your goals and objectives as a member of the Medical Board? What do you hope to accomplish during your tenure?

In a second term as a member of the Medical Board, I would like to look at ways to ensure ongoing physician competence, particularly by working with specialty societies and the Federation of State Medical Boards (FSNB). I also would like to continue working with the board's midwifery program to ensure their practice is safe and properly regulated, most significantly that their practice parameters are designed to promote public safety (please see question #9 below). In addition, I am interested in continuing my work on the board's commitment to ensure our licensees are properly trained by reviewing some of the for-profit, offshore medical schools whose primary purpose is to train U.S. students to return to the U.S. to practice.

2. What have been your most significant accomplishments as a member of the Medical Board?

I am particularly proud of my work with the board's Physician Loan Repayment Program. As part of the board's commitment to assist in providing physicians to underserved areas, I have been very active in the development, implementation, and continued support of the program. The board, as of this date, has placed 65 physicians in approximately 75 medically underserved practice settings. In addition, working with staff, I developed the California Physician Volunteer Program at the Medical Board. Together, the two aforementioned programs were combined to form the California Physician Core Program and recently by statute transferred to the Health Profession Education Foundation. I have been appointed to the Board of Directors of this foundation and look forward to building on these efforts. I am also proud to have successfully worked with divergent groups, often with opposing views, to build consensus and develop standards of care for California midwives, via regulation as mandated by SB 1950 and recently approved by Office of Administrative Law. Lastly, I am pleased to be working with California medical schools, Graduate Medical Education staff and legislators to help meet their needs for clinical instructors, while putting in place safeguards for California consumers.

3. How does the board ensure that licensees, applicants, and the public can participate in or access information about its activities, including participation and access by individuals with limited English proficiency?

The Medical Board of California uses several means to provide information to licensees, applicants, and the public so that these groups may learn about how to use our services. The board's website has separate links on its homepage with information for applicants, licensees and consumers. The board has a webmaster who receives approximately twenty inquiries per day. She is state-certified bilingual in Spanish. The board has an outreach program for applicants. The board publishes a quarterly newsletter, the "Action Report," written to keep our licensees abreast of changes in law, regulation, clinical medicine, and board related matters, including recent discipline that may affect their practices. This newsletter is also mailed to every media entity in the state. The board also has an

aggressive media relations program. Board staff who are bilingual regularly attend consumer fairs and other public events statewide, bringing with them our educational matters in several languages about how to use the service of the Medical Board. The board has staff fluent in Spanish in its complaint, licensing, business services, and executive offices, as well as many of its twelve district offices. In addition, the board has a dedicated TDD line for the hearing impaired at its headquarters. Also, the board holds quarterly meetings open to the public in various parts of the state.

4. What is the status of the Medical Board's efforts to implement the reforms contained in SB 231 noted above? What steps and timeframes has the board established to ensure appropriate and timely implementation of the bill's mandates?

The board has a proactive plan reviewed by board members periodically to ensure that every section of the new law is implemented timely, including the peer review study; implementation of vertical prosecution; promulgating regulations to ensure the loss of cost recovery is revenue neutral; and other key provisions. With respect to vertical prosecution, for months before the legislation was enacted, board enforcement staff and staff from the Attorney General's Health Quality Enforcement Section have met on numerous dates to flush out respective staffs' roles. Protocols have been developed and distributed to all involved participants and staff is continuing to update manuals and revise all affected areas of the program. While the transition continues, investigators and deputy attorneys general are working together in this new relationship.

5. Please explain whether and how the board intends to implement the enforcement monitor's recommendations for future action?

To date, the majority of the Enforcement Monitor's recommendations that do not require legislation have been implemented. SB 231 helped us with many that did require legislative change. The board will continue to work with control agencies to attempt to reinstate lost enforcement positions, as recommended by the monitor. The board currently is reviewing the structure of the board, including whether the Division of Medical Quality should continue review of Proposed Decision and Stipulated Settlements.

6. As a member of the Diversion Committee, do you believe changes to the program are necessary, and if so, what reforms do you believe are most crucial? Please also describe the board's efforts to resolve problems with the program before it sunsets.

I believe many of the criticisms of the Enforcement Monitor were valid and over the past year the board has replaced 70 percent of the Diversion Program staff; has hired a new program manager with strong public protection credentials; has created a supervisory position for case managers as recommended by the monitor; has dedicated a position to its urine collection system and implemented strong policies and procedures for urine

collection as recommended by the monitor; has developed a new Web-based Diversion Program tracking system that provides real-time information to case managers as recommended by the monitor; has reviewed the status of the Diversion Liaison Program, and has taken action to formally disband that program. Additional plans include developing standards for worksite monitors, policies for termination from the program, and policies for proper response to relapses, among others.

7. What is your view of the kinds of misdemeanor convictions that are 'substantially related' to the qualifications, functions, or duties of the physician? What is the status of the board's efforts to develop a proposal for this legislation or its plan for doing so?

This is a complex and controversial issue that the board's Public Education Committee, of which I am a member, has initiated formal discussions at its public meeting on February 2, 2006. At that meeting, interested parties, including the Enforcement Monitor, the Attorney General's Office, the California Medical Association, and others offered their initial opinions. The committee will meet again on May 10, solely to continue discussion of this issue. I believe generally that more information for the public is better than less, and while I have not yet made up my mind as to the best action on this issue, I lean toward inclusive reporting of misdemeanor convictions, as I think many do relate to the qualifications, functions, or duties of a physician.

8. What is your view of whether current law provides consumers with adequate access to information concerning a physician's misconduct? Do you believe that changes are needed to current policies regarding the disclosure of civil malpractice settlements?

I believe, and my votes on the Public Education Committee over the past several years have reflected, that the public should be provided with all the information necessary to make informed choices about physicians, including disclosure of malpractice settlements.

9. Given your experience, do you have an opinion on whether the board should continue to regulate midwives? Are there next steps on this issue and if so, what is the timeframe for those additional actions? Do you anticipate any additional regulatory action on this issue?

The board should continue to oversee and regulate licensed midwives. Our plans include legislation this year to address the physician supervision issue, and we are working with the Senate Business and Professions Committee to introduce appropriate legislation. I am asking for an advisory council to be established in statute that will allow individuals appointed by the Chair of the Midwifery Committee to meet and report to the committee on issues relating to the practice of midwifery, while providing for the safety of the consumer.

10. How does the board verify that its expert reviewers are board certified, and what can the board do to help ensure that incidents such as those described in the San Diego Union Tribune do not happen again?

All of our expert reviewers have to meet minimum requirements to apply, including board certification, three years' minimum practice, and no discipline or investigation pending. We have almost 900 expert reviewers in medical specialties throughout the state. Prior to their use, staff uses a checklist to ensure objectivity and that they meet ongoing requirements, including checking their board certification is still current.

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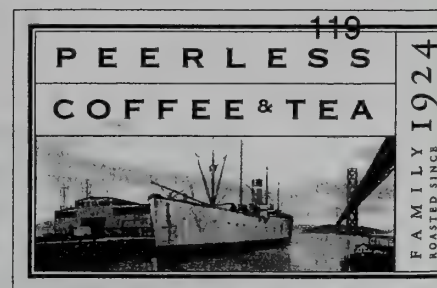
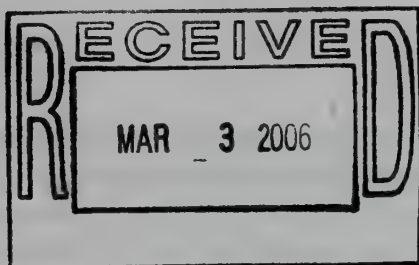
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February 28, 2006



Ms. Nettie Sabelhaus
Senate Rules Committee Appointments Director
State Capitol, Room 420
Sacramento, CA 95814

Subject: Responses to Senate Rules Committee Questions as part of
Confirmation Process for Regional Water Quality Control Board
Appointment

Dear Ms. Sabelhaus:

The following written answers are in response to Senator Perata's letter to me
dated February 6, 2006.

Statement of Goals

- 1. What are your goals and objectives as a member of the San Francisco Bay Regional Water Quality Control Board? What do you hope to accomplish?**

I grew up in the San Francisco Bay Area and am raising my family here. I hope that my children and the next generation of all Bay Area residents will have the ability to swim, eat and do business in and around our water resources. My goal is to protect the San Francisco Bay Area's water quality and to enforce the state and federal water pollution control standards. I will balance competing demands for our water resources and promote efficient use. I hope that I can help preserve and enhance the water quality in the area that I am proud to call home.

State and Regional Board Roles

- 2. Do you receive adequate support from the state board and your regional board staff to assist you in better understanding some of the complex issues before you?**

Yes. It does take a substantial amount of time to prepare for meetings but it is worth it. I receive staff reports, staff summary reports and presentations that

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explain and analyze the complex issues in understandable terms. The staff also provides board members a monthly report on items that keep both me and the public abreast of issues. Our Executive Director is always available to answer any questions I may have. I attended the WQCC (Water Quality Coordinating Committee) in Sacramento which provided an excellent background on a number of water quality topics.

3. Do you have any suggestions on how the state water board or your board's staff might better assist you?

Our Board has suggested that we have our Board meeting at different locations in Region 2. I feel that this will allow us to become more visible to the larger community and involve more of the public. Even though the staff would have some logistical issues, they have embraced the idea.

4. What training have you received to help you better understand when you might have a conflict of interest regarding an issue on your boards' agenda? How do you know when to withdraw yourself from voting on an issue? Have you done so since being appointed to this board?

The Chief Counsel of the State Water Board has come down and met with myself and all new appointees. Our Staff Counsel has met with us on a number of occasions and been available at all times, including all Board meetings, to answer questions. I have participated in a roundtable discussion lead by the Assistant Chief Counsel in Sacramento regarding Ethical issues and Conflicts. I have not withdrawn myself from voting on an issue since being appointed. I would not hesitate from seeking advice if there was any possibility of a conflict.

5. What is your view of the relationship between the state board and your regional board? Could coordination and accountability be improved? If so, how?

The State Board develops statewide water protection plans and establishes water quality standards. Our Regional Board takes their guidance and implements state and federal water pollution control measures. Our relationship on a day-to-day basis with the State Board and its staff is good. Both organizations do their best to share their expertise and experiences.

We inform the State Board of any upcoming up-coming issues arising out of our Region. The State Board has attempted to identify issues for statewide policy making by polling regional board managers.

Improvements could be made in the area of staffing. Unfortunately, the State Board will often take resources from regional boards for statewide efforts such as permitting and enforcement. Instead of taking resources away from the regions, the State Board could consider staffing its programs with temporary assignments

of staff from the regions as a means to spread regional expertise statewide. This also has the advantage of exchanging knowledge and building better relationships between the State and regional boards. In much the same way, State Board staff could benefit from temporary assignments at the regions, especially in evolving areas such as stormwater and TMDL development.

6. Are there specific areas of operation such as budget allocations that you think would benefit from increased transparency? What steps do you support to increase transparency of operations?

I believe that budget allocation and all information about board operations should be easily accessible to the public.

While this regional board has been a nationwide leader in making data from discharger monitoring, regional monitoring, and sanitary sewer overflows accessible electronically to the public, the board's record keeping system could be made more efficient. Given the lack of resources to upgrade the board's record keeping system, staff spend many unnecessary hours searching for records both for the board's and the public's use. The State should invest necessary resources to convert the entirety of the board's historical records into a searchable electronic form, which would have long-term payback in saving both the staff's and the public's time.

7. Do you believe your regional board is adequately funded to enforce the state and federal laws you are charged with enforcing?

In the numerous Board meetings that I have attended, many serious issues have been raised. While I am proud to say that all of these issues have been addressed by the staff, I do believe with more funding for staff to oversee enforcement, our Region could be even more effective in enforcing water quality controls.

For example, there were less than two positions specifically allocated to our region for enforcement last year, and the State Board has further reduced each region's allocation this year. Most of this board's enforcement has been and will continue to be supported by using funds from other water quality programs. Unfortunately, this negatively impacts the performance of those programs.

Water Quality Permitting

8. Would the use of numeric limits in stormwater permits be an improvement over permits that rely on best management practices?

It is unlikely that broad use of numeric limits in stormwater permits would be an improvement. All permits should be constructed to have prescriptive, enforceable

requirements that can be readily monitored or measured for compliance. The requirements must either protect existing beneficial uses or contribute to the restoration of beneficial uses when waters are impaired. The nature of these requirements depends on the source of the pollution: where pollution sources are continuous and predictable, such as for point sources like municipal or industrial wastewaters, numeric limits are appropriate and should be used.

Where the nature of the pollution is less predictable, less constant, and thus is difficult to efficiently treat, such as for stormwater and other non-point sources, numeric limits are unlikely to be efficient in protecting or restoring beneficial uses. In these cases, it is more efficient to require measures that result in the reduction of pollutant loads in waters, such as pollution prevention, source control, improved site design, and measures that moderate runoff or the flow of pollutants.

Where flow and quality of runoff is better defined, such as from an industrial site, as compared to a whole city or watershed, it may be appropriate to establish benchmark levels of accessible pollutant runoff, such as is now being considered by the State Board in its update of the statewide permit for industrial stormwater runoff.

Our staff is also working on this issue now as it prepares a region wide storm water permit for municipal sources. However, we expect that any numbers in stormwater permits, even if they are not effluent limits, will be controversial due to the potential costs and difficulties in achieving them.

Enforcement of Water Quality Laws

9. What do you expect of your new enforcement coordinator? How do you plan on measuring improvements in the enforcement activities at your Board?

Enforcement is of primary concern for me, coming from a law enforcement background. Without proper enforcement of our permits, TMDLs, groundwater controls, etc..., we will not be able to maintain and improve the quality of the water in the Bay Area.

I am excited that we have Alan Friedman as our region's enforcement coordinator. He comes to this position with a long and varied experience in enforcement within our board. In this role, he serves as a liaison to the State Board's enforcement program, and works on improving the quality, consistency and tracking of our enforcement activities.

I expect to see an increase in the numbers of enforcement items brought to our board and I hope the increased visibility and the deterrence effect of this enforcement should also reduce the number of chronic violators. I also expect that our tracking of fine collection and public access to information on fines will

continue to be improved, as well as public access to violations and the associated enforcement actions. The success of this work is already evident through the online availability of discharger monitoring data, an area that this board has lead the nation on.

Water Quality Monitoring

10. Is your board adequately monitoring water quality within its current funding levels? Should water quality monitoring be a higher priority for the state and regional boards? What specific steps could your board take to make monitoring more effective?

Board staff cannot adequately monitor our waters with existing Surface Water Ambient Monitoring Program (SWAMP) funds. Our SWAMP resources are used to monitor all rivers, creeks, lakes, and reservoirs in the region. Within the constraints of SWAMP funding for only one staff person, staff have worked to supplement this effort with monitoring by dischargers and other agencies, including the San Francisco Estuary Regional Monitoring Program (RMP). This board created the RMP and we require dischargers to contribute funds to support it. The RMP, which is administered by the San Francisco Estuary Institute, has an annual budget of \$3 million that provides comprehensive monitoring of water, sediment, and fish throughout the Bay.

To improve the SWAMP program, Board staff is an active participant in the scientific and programmatic review of SWAMP that will assist a statewide redesign of the program. This redesign should better meet the needs of water quality managers by optimizing the development of accessible, high quality information to provide the basis for water quality decisions. However, without more sustainable funding, SWAMP will continue to fall short in its ability to inform all decisions.

Monitoring should be a higher funding and staffing priority. The data the monitoring programs provide is essential to develop priorities and informed decisions on water quality management.

South Bay Salt Pond Restoration

11. What is the goal of the South Bay Salt Pond Restoration Project? Which alternative will provide the best water quality for the project? Which alternative will provide the optimum fisheries and wildlife habitat restoration?

The goal of the South Bay Salt Pond Restoration Project is to prepare a scientifically sound and publicly supported restoration and public access plan that can begin to be implemented by 2008.

Changing salt ponds into tidal flats, channels and marshes would greatly benefit water quality, by providing a huge natural filter for pollution that was taken away when the salt ponds were historically diked off from the Bay. Additionally, tidal restoration will provide more flood protection, more biological productivity to create more bay life, provide nursery habitat for numerous aquatic species like California halibut and Dungeness crab, and help recover two endangered species, perhaps taking them off the endangered species list.

Some bird species that have adapted to salt ponds, including migratory and resident waterfowl and shorebirds, would benefit from an alternative that included a lot of diked ponds. Any alternative that maintains managed ponds in the project will require ongoing regulation by this board for discharge permits, because these ponds can stagnate and cause water quality and other problems such as algae blooms, low oxygen impacts to aquatic life, entrapment of migrating fish, fish kills, toxicity due to high salinity, uptake of mercury in the food web, and potential foul odors.

Toxic Blue-Green Algae

12. What is the extent and concentration of blue- green algae within your board jurisdiction?

Staff reports detections of blue-green algae at levels below thresholds of concern in the Delta, Mallard Reservoir in northern Contra Costa County and Rodeo Lagoon on the coast in southern Marin County. Staff is not aware of any other levels of concern in our jurisdiction, but not much systematic monitoring has occurred.

13. What activities are planned by your board to deal with blue-green algae?

The issue of blue-green algae in surface waters of the San Francisco Bay Region is at a research stage and not a regulatory stage; staff is exploring the use of monitoring funds to study the issue further and set priorities for action where warranted. Such a commitment is dependent on the availability of monitoring funds, a significant issue as described above under Question 9.

14. Is your board participating in the blue-green algae state task force?

On November 8, 2005, U.S. EPA and the State Board held a workshop on blue-green algae, attended by staff of this board. A statewide task force was formed on this topic. Our staff is actively tracking this effort but participating on an intermittent basis due to the limited resources available under SWAMP.

Local Flooding

15. How is the Napa River Flood Protection Project progressing? When will it be completed? What level of flood protection will the project provide?

While the regional boards are not flood management or land use agencies, they do need to approve flood management projects to ensure that the projects are protecting of all beneficial uses of water for all the state's residents. The Napa River Flood Protection Project is an example where this approval role has successfully resulted in a project that both protects the public and its property and allows restoration of the Napa River floodplain, adjacent wetlands, and the water quality functions of the River.

Due to funding constraints, this project is behind schedule. It is approximately half-way done, and dependent on funding, all components of the project should be complete around 2011. The completed project as designed should provide protection against a 100 year flood.

16. Are there other opportunities within your board's region where the restoration of natural floodplains also can be accomplished? Where?

Restoration of natural floodplains is possible throughout our region, dependent on funding. The natural floodplains of such rivers as the Novato Creek, the Petaluma River, Sonoma Creek, and up-valley portions of the Napa River are the most likely candidates for floodplain restoration, given their proximity to agricultural lands that tend to be less expensive to acquire for restoration than lands in urban areas. However, Contra Costa County has already started land acquisition in some already developed floodplains, such as lower Walnut Creek and Alhambra Creek. This board will continue to assist flood management agencies in these efforts.

17. Are there other types of alternative flood protection besides raising levees or raising the banks of streams that can or should be utilized? What are they?

Yes. When dealing with water in streams, restoring a stream's natural flood plain is environmentally preferred and in the long run will provide more effective and sustainable property protection than attempts to contain a stream's flow between artificial banks or levees.

If the runoff of stormwater is slowed or otherwise controlled before it reaches streams, the potential for both flooding and damage to stream beds and banks can be reduced. Measures of control include reducing impervious surfaces, numerous practices to detain or slow down runoff, and/or increasing runoff infiltration into the ground. These measures have the multiple benefits of improving water quality, improving water supplies (more groundwater recharge),

reducing peak floods, and lower long-term cost than "traditional" flood control projects. Our region has been a statewide leader in requiring development and implementation of plans that control the flow of stormwater runoff.

Cleaning up Impaired Waters

18. What specific steps do you support to get your regional board on schedule in identifying impaired waters and developing pollution loads that will lead to expeditious cleanup?

By the end of this fiscal year, our Board will have taken action on TMDLs for one-third of the 270 impaired water quality listings in our Region. In addition, nine additional projects are scheduled for completion by 2008 that address over 50 listings. We have made it clear to our staff that TMDLs are a high priority, but we have also made it clear that the TMDLs must be implementable and result in real water quality improvements.

We expect future TMDLs to build upon our current efforts and expect to realize efficiencies from applying approaches to upcoming TMDLs that reflect lessons learned. We have also encouraged ongoing collaboration with dischargers and the environmental community as we develop TMDLs. We have embraced the Clean Estuary Partnership wherein Bay Area municipal stormwater and municipal and industrial wastewater dischargers are providing approximately \$1,000,000 annually to assist in developing TMDLs. The bottom line is that most of our TMDLs, particularly those for San Francisco Bay, are exceedingly complex and require considerable data collection and analysis efforts.

As for identifying other waters that may be impaired, we are fortunate to have the RMP described in Question 9 that includes Bay-wide monitoring of emerging pollutants of concern such as PBDE flame-retardants. However, as noted there, we realize our existing SWAMP resources are not sufficient to monitor our other waters in a timely manner.

19. What steps would you take to implement identified pollutions loads? Do you think other agencies have a role in implementing these loads? If so, how would you ensure that they meet this responsibility?

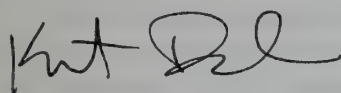
All our regions TMDLs include (and will include) implementation plans, even though this is not required by U. S. EPA. As part of the development of TMDLs, our staff identifies responsible parties and evaluates implementation options.

To the fullest extent possible, we seek commitment and accountability from dischargers and responsible parties, including other public agencies. For example, our staff has successfully collaborated with the State Department of Pesticide Regulations on the development of a TMDL for pesticide toxicity in our region's urban creeks.

We expect to continue to use our Federal Clean Water Act and State Water Code authorities to implement TMDLs via NPDES permits, Waste Discharge Requirements, and/or conditional waivers of Waste Discharge Requirements. We are also counting on our staff to optimize use of grant resources to implement TMDLs.

Thank you for considering my appointment for confirmation. Please feel free to contact me if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kristina Brouhard', with a stylized, cursive script.

Kristina Brouhard

March 2, 2006

Ms. Nettie Sabelhaus
Senate Rules Committee Appointments Director
State Capitol, Room 420
Sacramento, CA 95814

Subject: Responses to Senate Rules Committee Questions as part of Confirmation Process for Appointment to the San Francisco Regional Water Quality Control Board.

Statement of Goals

What are your goals and objectives as a member of the San Francisco Bay Regional Water Quality Control Board? What do you hope to accomplish?

My Goals are:

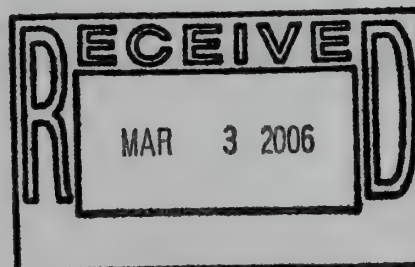
To encourage and support Water Board staff to conduct their work in a way that makes the best use of their expertise and limited resources by addressing problems systematically, setting priorities, improving and maintaining open and frequent communications with stakeholders and community leaders. To advocate as necessary on the Regional Water Board's behalf with State Water Board and US EPA leadership for potential additional resources to better accomplish the Regional Water Board's mandated duties.

My Objectives are:

To improve upon the high standard of proactive and creative water quality protection leadership, to solidify a growing regional effort towards San Francisco Bay region stewardship and water quality restoration and establish the San Francisco region as a benchmark for excellence in cost effective pollution prevention and water resource restoration.

What I hope to accomplish:

- Securing more resources for the Regional Water Board, commensurate with the scope of mandated duties and programs that proactively advance water resource stewardship
- Full satisfaction of the Regional Water Board's performance objectives for permit re-issuance, enforcement, TMDL and Basin Plan updates according to priority and resource availability
- A higher public profile of and recognition for the Water Board's on-going work and accomplishments in water resource protection and restoration
- Ultimately, I hope to help achieve regional sustainability and livability in all the ways that water touches the human 'environment' and that humans touch the water environment.



State and Regional Board Roles

Have you received adequate support from the State Board and your Regional Board staff to assist you in better understanding some of the complex issues before you?

Yes I certainly have! Legal staff (Yuri Won and Dorothy Dickey) has been responsive, clear and very attentive to my many inquiries. Technical staff have ALL been helpful, and thorough in their descriptions of issues and provide me with all the technical background I've requested. Prior to each Board meeting, the EO and I discuss (by phone) any background or details regarding the upcoming meeting's agenda items.

Do you have any suggestions on how the State Water Board or your Board's staff might better assist you?

State Board legal staff have all been very attentive, but I think it would also be helpful if new Regional Board members were given an introduction to the divisions of responsibilities and duties between the State and Regional boards. Clarity in this regard would help newer board members understand constraints and opportunities in these relationships. Also, IF the various divisions provide the EO or the State Board with a written monthly or quarterly update on the accomplishments and challenges of the prior month or quarter, it would be helpful and informative to be included in this kind of communication. Similarly, if there is any 'roll-up' to the State from the regions, knowing more about what is happening in other regions would also be beneficial.

What training have you received to help you better understand when you might have a conflict of interest regarding an issue on your Board's agenda? How do you know when to withdraw yourself from voting on an issue? Have you ever done so since being appointed to this board?

State water board legal council provided a very thorough briefing, Board members were required to take the web-based 'Ethics Training', which also provided guidance on this issue, and our in-house legal support staff have been available whenever we have a question. I am clear on what would constitute a conflict of interest for myself – and it would be very unlikely to occur. However, I have recused myself from two votes on matters associated with businesses that belong to the trade association that employs me (The Silicon Valley Leadership Group). Although State Board legal staff have *thrice* reassured me that these issues are not conflicts of interest (there is absolutely no fiscal relationship between these organizations and me), I recuse myself in order to avoid even the possible appearance of a conflict. These situations do not occur frequently, so I do not think I am limiting my effectiveness on the Board by taking this extra precaution.

What is your view of the relationship between the state board and your regional board? Could coordination and accountability be improved? If so, how?

My impression of the relationship between the state and the Regional Boards is that there could be much better coordination, on the common and high-level policy issues. But I'm

not sure if the resources are there to accomplish that. I understand that the State board is supposed to provide a liaison to attend each of our monthly meetings. At this time (and for the past many months) Region 2's meeting has not been attended by anyone from the State Board. It seems to me that this connection is critical and both the Region and the State are missing opportunities for collaboration and communication. Although I have little first hand experience to go on, it is my impression that the way resources are allocated throughout the Regional Boards (by the State Board or with the State Board) is a process that could be improved. I am aware that there are certain bureaucratic restrictions associated with budgets and staff, but if Region 2 is finding itself pinched due to budget and staff limitations, then that needs some attention.

I think it is entirely right and appropriate that each region have its own issue priorities and unique 'culture' as these should reflect and respect the unique region being served. However, all regional and state board operations must have some administrative commonality that could be coordinated and there are some very high-level policy issues that might be more effective if set from a 'top down' perspective – for example: staff and budget allocations according to workload demand, coordinated TMDL's for up and down-stream regions, and where appropriate state-wide inter-agency agreements instead of region-by-region agreements.

Are there specific areas of operation such as budget allocations that you think would benefit from increased transparency? What steps do you support to increase transparency of operations?

Yes, I think there may be some opportunities here. Recently Region 2 board members were treated to the US EPA's 'concern' over permit re-issuance. It is my understanding that some regions have a surfeit of resources in this area (more staff, fewer permits, or a lighter re-issuance cycle), and some have a deficit. If there was a way to look at the number of permits needing to be re-issued state-wide over a given period of time, and do some selective 'loaning' of resources between regions, this might be a more efficient use of resources, provide some professional development opportunities for staff, provide a need for (and thus the situation of) better communication and coordination between (and within) Regional Boards. Of course, I am just an appointed servant, not someone familiar with the legalities and limitations of state policies, so none of this may be workable... it is merely an idea.

Do you believe your regional board is adequately funded to enforce the state and federal laws you are charged with enforcing?

I do not think the SF Regional Board is adequately funded to do all the things it is tasked with doing. Enforcement is not the only activity the Board is mandated to do and the employees tasked with this role do many other things as well. There is no practical way to separate the valuable enforcement activities they are responsible for from the many other tasks the same employees are also responsible for. I think it is not just an issue of adequate funding, but of clearly set and consistent priorities. For example; during the January board meeting, a representative of US EPA harshly accused the members of the

Board in public testimony of shirking their duties because the number of NPDES permits that were not current, or would soon be out of date, had reached a number unacceptable to the US EPA. Appearing after this representative was another US EPA representative who stated that it wasn't permits, but enforcement that should be the highest priority. If the same people undertake these tasks, and with the current level of staffing they can do one or the other, but not all of both, is it an issue of priorities, or is it an issue of funding? Personally, I would like to be able to be responsive to both requests, as they are both valid and important. So I would have to say, the Region is under-funded for the level of effort required under the current expectations.

Would the use of numeric limits in storm water permits be an improvement over permits that rely on best management practices?

That would very much depend on your perspective, and on the specific situation being evaluated. Storm water is not a controlled or controllable flow, concentrations of materials dissolved or suspended in storm water runoff may be ameliorated by actions taken through best management practices. If the desired outcome was to have a simple checklist and criteria to determine "good guy" vs. "bad guy", then numeric effluent limits for storm water would be an easy and efficient way to reduce ambiguity about compliance status (at least from the perspective of the regulator). However, if the desired outcome is accuracy, valid data, solvent communities and businesses and ultimately improved water quality, I don't think numeric effluent limits will get us there.

Being able to report or adhere to numeric limits assumes some things that are not most discharger's experience of reality. Numeric limits assume that dischargers can report volume, rate and concentration of their effluent, down to a very precise measure. This is how present industrial waste water and NPDES point-source discharges are regulated and reported. Only where water flows through a channel or a pipe that is then continuously monitored (or sufficiently frequently monitored to provide a suitable proxy for continuous monitoring) can one match actual discharge quality to effluent limits. Unless a facility or municipality has a combined sanitary and storm sewer, this is not likely to be possible. Furthermore, many (if not most) industrial storm water dischargers experience flow conditions that are 'sheet flows' or may be run-on flows from adjacent facilities. Sampling is typically done as 'grab' samples. This is helpful for 'spot checking' but without the physical conditions enabling accurate total volume and rate of flow on to, across and off of a site, numeric limits are meaningless.

To make numeric effluent limits meaningful, dischargers would need to capture every drop of precipitation that hit their facilities. They would have to prevent any run-on or run-off. They would need to sample this water continuously as it left their site through a conveyance that enabled calculation of volume and concentration of pollutants. To be fair, meaningful and effective this would need to be done for the entire urban landscape, going back to the concept of combined storm and sanitary systems. In the vast majority of municipalities (and at regulated commercial and industrial facilities), this kind of urban retrofitting is just not practical.

It is my opinion that addressing storm water pollution requires as systemic approach that means more enforcement, much more public education, coordination with multiple groups to implement best pollution prevention practices, better use of the data being submitted now, and a closer coupling of storm water management with land use policy and landscaping practices at a city or even regional level and encouraging the cost effective transition from impervious to pervious surfaces where ever possible. The physical environment shaped by land use decisions is not something the Water Boards regulate. So to truly address the issue, water boards and the state board will need to work with state and local land use jurisdictions to address these challenges collaboratively and strategically.

What do you expect of your new enforcement coordinator? How do you plan on measuring improvements in the enforcement activities at your board?

My expectations of the enforcement coordinator would include analysis and reporting on such things as:

- The current enforcement standard practices, and if these practices are consistent among the regions.
- The present staffing and resource levels and if they are commensurate with the enforcement workload.
- If resources and staff are limited, how enforcement actions are prioritized.
- If other regions implement enforcement programs differently, I would expect to see comparisons and descriptions of alternatives and possible 'best practices'
- Within a reasonable time frame, I would expect to see an analysis and a proposal for implementing recommendations to improve our region's practices – whether by more effective use of existing resources, or by a strategy for program or resource additions or changes.

I would measure 'improvements' based on the outcome of the previously discussed analysis. "Improvement" is a vague term and until meaningful, achievable goals and resources and methods for their attainment have been identified, I would be hesitant to jump ahead to creating a specific plan for 'measuring improvements'. Measurement is a very powerful tool and is necessary for accountability, transparency and to measure success. But measurement for the sake of checking a box is a waste of public funds. Ultimately, the best measures of the effectiveness of enforcement are that the number of violations goes down, compliance performance goes up, and water quality improves.

Is your board adequately monitoring water quality within its current funding levels? Should water quality monitoring be a higher priority for the state and regional boards? What specific steps could your board take to make monitoring more effective?

The San Francisco Region is very fortunate to have the Regional Monitoring Program as a solid and reliable resource for water quality monitoring data. However, it is my understanding that this is largely limited to water of the San Francisco Bay. And

although local and regional storm water / urban runoff management agencies also conduct some monitoring and contribute these data (as well as support the RMP). For ALL other surface waters, the Board relies on fund from the SWAMP program (Surface Water Ambient Monitoring Program). It is my understanding that at this time, SWAMP only covers the costs for one staff person. Also, there is not presently funding to sample every location on a frequency that would be useful for planning or policy work. Unless there are special arrangements made with other organizations, the sampling frequency may be once each 10 years, or more.

Because we all make better decisions with better information, it seems only prudent to invest more – state-wide – in surface water monitoring. This can be accomplished in many different ways, but I think it would be wise if this were approached strategically, and comprehensively!

What is the goal of the South Bay Salt Pond Restoration Project? Which alternative will provide the best water quality for the project? Which alternative will provide the optimum fisheries and wildlife habitat restoration?

The goal of the South Bay Salt Pond Restoration Project is to work with the various state, federal and local agencies (such as State Lands, Fish and Game, Fish and Wildlife, Coastal Conservancy, BCDC, etc. etc.) to evaluate the present circumstances of the ~15,000 acres of salt ponds, and identify the optimal combination of tidal ponds, managed ponds and upland habitat for as wide an array of local and migratory species as possible, and at the same time, provide for reasonable public access and effective flood control for critical infrastructure (such as rail lines and power transmission lines) and Bay margin communities that presently rely upon the piles of mud that pass as levees for protection against Bay flooding. This is the largest wetland restoration on the west coast, and probably right up there on par with the restoration of the Everglades in complexity and potential environmental benefit!

Which alternative provides the 'best' water quality is an open question. "Best" is a very subjective term and may vary according to the criteria applied. "Best" water quality from a mercury methylation standpoint would be an alternative that maximizes 'open water' and tidal action and minimizes the colonization of bay margin vegetation that increases organic material in the water column. However, controlling mercury methylation is not the only water quality concern and must be balanced against other objectives of the project.

The 'optimum' fisheries and wildlife habitat depends upon which fisheries and which wildlife is being considered. As an example, from a 'birds' point of view, the more open water is created, the more migratory fowl such as ducks and geese will benefit. However, snowy plovers and least terns (both endangered species) will be disadvantaged, as these species currently make use of the dry salt pans and their margins for nesting and foraging. Fisheries may be improved with the creation of more open water and fewer tidal or managed ponds. The trade-off here may be the loss of (or the re-creation of less) marsh, wading and salt-pan habitat. Additionally, more managed ponds and marsh areas buffer

tidal and storm surges and may 'soften the blow' of sea level rise. Without these mitigating features of restored marshes, levee maintenance and flood control measures may be much more complicated and require more engineering and maintenance.

Presently, the project is beginning the CEQA/NEPA review process and the programmatic alternatives being considered are two 'book ends': a 50:50 ratio of managed to tidal action ponds out to a 90:10 ratio. The outcome of the CEQA/NEPA evaluation will no doubt result in the selection of a ratio somewhere between these two 'book-ends' and a configuration of ponds that optimizes the three main project criteria of habitat improvement, public access and flood protection.

As a designated 'stakeholder' in the process, it has been a pleasure and an education to participate in the complex and deliberative work of this group!

What is the extent and concentrations of blue-green algae within your board's jurisdiction?

As far as I am aware, there have only been a couple of locations and instances of 'blooms' of *Microcystis aeruginosa*, one of the three types of toxic blue-green algae, in Region 2. Some 'blooms' have been identified in the Napa River in the north, Mallard Reservoir in Contra Costa County and at (or near) the eastern margin of Region 2's jurisdiction in the western portion of the Delta. (Many more instances have been identified further east, in the central portion of the Delta, which is outside Region 2's jurisdiction). As far as I know, none of the instances of blue-green algae 'blooms' in Region 2 have been above levels of concern.

Toxic blue-green algae blooms have been recorded in many countries, including Australia, Canada, Europe and in many parts of the United State. Blue-green algae (which is a general term for many types of algae with similar characteristics) is one of the oldest known forms of life on earth and is endemic to most aquatic environments, and when conditions are right (still warm water, sunlight and plenty of nutrients), these algae proliferate. The presence of this algae itself is not the issue. Blue-green algae 'blooms' can be indicators of excessive nutrients in a water body. The source of these nutrients may be from any of several sources, but anthropogenic origins are the more likely. In sufficient concentrations they produce neuro- and hepato- toxins (nerve and liver toxins). In high enough concentrations, these toxins may poison cattle and wildlife and certainly pose a health risk to humans.

What activities are planned by your board to deal with blue-green algae?

Any of several actions in place, in progress or planned will address the issue of nutrient-loading. These include existing NPDES permits and enforcement of the same, municipal storm water permits, and TMDL development for those water bodies identified as impaired by nutrients. Additional actions that can be taken by municipalities – either as part of their urban runoff programs or as separate activities – include implementing or

encouraging 'green' business practices, implementing integrated pest management (IMP) or 'organic' landscape management practices that minimize the use of fertilizers, xeriscaping, and maximizing pervious urban surfaces. In more rural areas, there are other ways to minimize nutrient-loading, such as employing well-established best practices for keeping livestock out of creeks and applying appropriate levels of fertilizers ('organic' or otherwise).

Is your board participating in the blue-green algae state task force that includes the Department of Health Services, the Office of Environmental Health Hazard Assessment, the State Water Board, the Department of Water Resources, and the federal EPA?

I am not aware of any Region 2 board members participation on this task force. I understand that the State Water Board and US EPA held a workshop on the issue late last year.

How is the Napa River Flood Protection Project progressing? When will it be completed? What level of flood protection will the project provide?

The Napa River Flood Protection Project is approximately half-way done. IF all goes well (and that's a big 'if', as completion depends in part of obtaining less and less reliable federal funding to match local funding), the various components of this large project will be complete around 2011. Ideally, the completed Project will provide protection against a 100 year flood.

Are there other opportunities within your board's region where the restoration of natural floodplains also can be accomplished? Where?

There may be other locations with some opportunities for 'natural' floodplain restoration can be accomplished. Some examples are: the Guadalupe River in Santa Clara County, where significant floodway landscaping and design have taken place (with more to do), and perhaps some parts of San Fransisquito Creek, separating San Mateo County and Santa Clara Counties. Opportunities for 'restoration' require that there be some flexibility in land uses. Some of the most flood-prone streams or rivers are in urban settings where development may already be quite close to stream channels. Because of upland development, storm flows have changed. We have brought the floodplains to us, perhaps as much as we have encroached on floodplains. With urban development near or in 'natural' floodways, we must be very clever about how we 'restore' these important waterway functions. Riparian areas provide many amenities, and if thoughtfully 'restored' provide a significant asset to communities and habitat resources. But to consider their conditions 'natural' or 'restored' is misleading. There is little 'natural' about a waterway in an urban area, and 'restoring' something, may not be sufficient or appropriate if the waterway no longer functions in a 'natural' way. Land use, especially near streams, should be undertaken with care and purpose to ensure the most value and benefit to the community and to riparian ecosystems. However, the Water Boards have little input and less jurisdiction regarding regional or local land use decisions.

Are there other types of alternative flood protection besides raising levees or raising the banks of streams that can or should be utilized? What are they?

Channel terracing, channel expansion, ox-bow widening, by-pass channels (these can be culverts, ponds, channels that are normally dry, etc.), upland storm water retention through pervious surface protection, encouraging infiltration where appropriate (dry wells, ponds, landscaped swales, etc.).

What specific steps do you support to get your regional board on schedule in identifying impaired waters and developing pollution loads that will lead to expeditious clean up?

270 water bodies have been identified as impaired in Region 2 and within the coming year, a third of these will be addressed by TMDLs. An additional 50 or so listings will be covered by TMDLs planned for the next two years.

While wanting to be responsive to the need to accomplish water quality objectives, I am less concerned about keeping to a 'schedule' than to developing TMDLs that are effective. To accomplish this, the Water Board staff must be attentive to local conditions, incorporate the very complex scientific information regarding impacts and natural systems, be respectful of local or regional interests and effective in bringing diverse groups into agreement regarding implementation and maintenance of the TMDL once it has been developed. TMDLs should be a means to make lasting, adaptive, and significant improvements in water quality and not simply be a paper exercise.

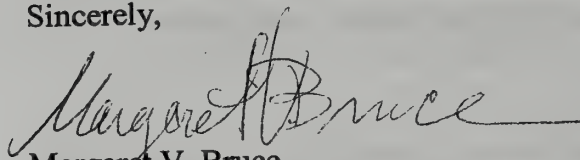
What other steps would you take to implement identified pollution loads? Do you think other agencies have a role in implementing these loads? If so, how would you ensure that they meet this responsibility?

The first question doesn't make sense. I will presume that the intent of the question is regarding how to identify and then reduce identified pollutant loads. If that is so, then I think the TMDLs developed by the Regional Board spell out the steps for identifying pollutant sources and set out implementation plans for accomplishing the reduction of pollutant loads quite clearly. Other agencies very clearly have a role in implementing some portion of pollutant loading reductions. A very good example is the experience Region 2 has had with the Department of Pesticide Regulation in the implementation of the Diazinon/Pesticide Toxicity TMDL. Prior to the positive working relationship forged between DPR and Region 2, DPR accepted no role in urban pesticide use issues. Yet as our state's urban areas expand, the quantities of pesticides used in these areas has dramatically increased, compromising the health of many urban waterways. Success in addressing issues such as these will depend upon clear roles, responsibilities and mutual accountability between agencies, and less of the frame of mind of 'that's not my job'. To ensure agencies address the less direct impacts of their regulated spheres (DPR is just one example) they must be held to account that the indirect impacts ARE ALSO their responsibilities. If they do not see them as such, or if they are not clearly spelled out,

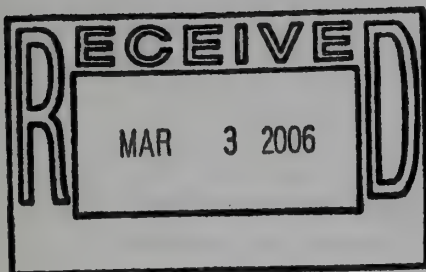
they will have no reason (or ability) to budget for, prioritize or allocate appropriate staff to the necessary tasks.

Ms. Sabelhaus, Senator Perata and honorable members of the Senate Rules Committee, it has been my pleasure to reply to your questions. I hope I have responded in a candid and informative way that enables you to judge my knowledge, my ability and my commitment to serving on the San Francisco Regional Water Quality Control Board. I am at your disposal to provide any clarification or answer any further questions.

Sincerely,



Margaret V. Bruce


Shalom Eliahu

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Lafayette, CA 94549
Tel: 925 944-0250
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February 28, 2006

Ms. Nettie Sabelhaus
Senate Rules Committee Appointments Director
State Capitol, Room 420
Sacramento, CA 95814

Subject: Responses to Senate Rules Committee Questions as part of
Confirmation Process for Regional Water Quality Control Board
Appointment

Dear Ms. Sabelhaus:

In response to Senator Perata's letter to me dated February 6, 2006, enclosed are my written responses to the questions included in the above mentioned letter.

Statement of Goals

1. What are your goals and objectives as a member of the San Francisco Bay Regional Water Quality Control Board? What do you hope to accomplish?

My primary objective as member of the San Francisco Bay Region WQCB is to protect and enhance the quality of the Region surface water and groundwater for beneficial use.

State and Regional Board Roles

2. Do you receive adequate support from the state board and your regional board staff to assist you in better understanding some of the complex issues before you?

Yes I do depend on Board staff to present me with all the technical reports and scientific studies that staff conduct. On the basis of these studies and reports I make my recommendations and cast my decision. I have a direct access to the Executive Officer of the Board for questions and behind the seen explanations of some of the very complex issues. My interaction is basically with the Regional Board. I have very little interaction with State Board. Twice a year I get to meet Members of the State board for an overview of the Board activities and trend. I think this is very helpful.

3. Do you have any suggestions on how the state water board or your board's staff might better assist you?

No I have no suggestions. I am satisfied with the information and analysis I get from the board staff.

4. What training have you received to help you better understand when you might have a conflict of interest regarding an issue on your boards' agenda? How do you know when to withdraw yourself from voting on an issue? Have you done so since being appointed to this board?

I had a number of sessions with the State Chief counsel on this subject, and I am quite comfortable to know when I might conflict of interest regarding an issue. Also I had a number of discussions with the State Chief Counsel about EX PARTE Communications. As required by law, I have taken the "Interactive Online Ethics Training Course. When ever I have any doubt about whether I have a conflict of interest on an issue, I do consult with either State Counsel or the Regional Board counsel, whether I should withdraw myself from voting on a particular issue before the Board.

5. What is your view of the relationship between the state board and your regional board? Could coordination and accountability be improved? If so, how?

I understand that on a day-to-day basis the relationship between my Board and State Board and its Staff is good. There are constant interactions between both organizations and they do share their expertise and experiences.

The State Board should be more proactive in developing State wide policies that could help all regions to become more efficient.

Recent trend by the State Board to take resources from regional boards for statewide policies development such as permitting and enforcement is counterproductive. Instead of taking resources away from the regions, the State Board should consider staffing its programs with temporary assignments of staff from the regions as a means to spread regional expertise statewide. This also has the advantage of exchanging knowledge and building better relationships between the State and regional boards. In much the same way, State Board staff could benefit from temporary assignments at the regions, especially in evolving areas such as storm water and TMDL development.

6. Are there specific areas of operation such as budget allocations that you think would benefit from increased transparency? What steps do you support to increase transparency of operations?

It is my understanding that the public generally has not had much interest in budget allocations. Never the less I think this and all information about board operations should be easily accessible to the public. I think public access and scrutiny should be accomplished by making the information available through a user-friendly websites, so that the public may do its own research, and reduce its reliance on time-consuming Public Record Act requests.

The San Francisco Region Water Board has been a nationwide leader in making data from discharger monitoring, regional monitoring, and sanitary sewer overflows accessible electronically to the public. The board's record keeping system needs to be upgraded so it could be made more efficient. The State should invest necessary resources to convert the entirety of the board's historical records into a searchable electronic form, which would have long-term payback in saving both the staff's and the public's time.

7. Do you believe your regional board is adequately funded to enforce the state and federal laws you are charged with enforcing?

No, the regional board is not adequately funded for enforcement. There were less than two positions specifically allocated to our region for enforcement last year, and State Board has further reduced each region's allocation this year. Most of this board's enforcement has been and will continue to be supported by using funds from other water quality programs. Unfortunately, this negatively impacts the performance of those programs.

Water Quality Permitting

7. Would the use of numeric limits in stormwater permits be an improvement over permits that rely on best management practices?

It is my opinion that the use of numeric limits in stormwater permits would NOT be an improvement. All permits should be constructed to have prescriptive, enforceable requirements that can be readily monitored or measured for compliance. Unlike point source and industrial wastewater, where numeric limits are appropriate and should be used, storm water pollution is less predictable, less constant, and thus is difficult to efficiently treat. It is my opinion that for non-point sources numeric limits are unlikely to be efficient in protecting or restoring beneficial uses. In these cases, it is more efficient to require measures that result in the

reduction of pollutant loads in waters, such as pollution prevention, source control, improved site design, and measures that moderate runoff or the flow of pollutants.

Stormwater from industrial sites, where runoff is better defined, as compared to a whole city or watershed, it may be appropriate to establish benchmark numerical levels. I understand that this concept is now being considered by the State Board in its update of the statewide permit for industrial stormwater runoff.

My Region San Francisco Region 2, staff is also working on this issue now as it prepares a region wide stormwater permit for municipal sources. This issue will be controversial due to the potential costs and difficulties in achieving them.

Enforcement of Water Quality Laws

8. What do you expect of your new enforcement coordinator? How do you plan on measuring improvements in the enforcement activities at your Board?

Enforcement has always been a key part of my board's mission, and this board aggressively pursues violators even when criminal penalties are not appropriate. In August 2005 Board management appointed Alan Friedman as our region's enforcement coordinator. He comes to this position with a long and varied experience in enforcement within our board. In this role, he serves as a liaison to the State Board's enforcement program, and works on improving the quality, consistency and tracking of our enforcement activities.

He has started by establishing a working group of enforcement coordinators from each of the board's divisions. This group meets monthly to define and recommend enforcement priorities to board management, discuss upcoming enforcement actions, and ensure consistency in enforcement approaches across all divisions. Alan also participates in the State Board's enforcement roundtables.

I expect that the enforcement coordinator will have both greater uniformity and increased numbers of enforcement actions across all programs. This can be partially accomplished by staff training and standard enforcement models to increase the number of enforcement items brought forward for board consideration. I also expect that our tracking of fine collection and public access to information on fines will continue to be improved, as well as public access to violations and the associated enforcement actions. The success of this work is already evident through the online availability of discharger monitoring data, an area that this board has a lead on

nationwide. In addition online data are now available on geographic locations of sanitary sewer overflows in our region, another nationwide first.

Improvement in the enforcement activities will be measured in an increase in the numbers of enforcement items brought to our board.

Water Quality Monitoring

9. Is your board adequately monitoring water quality within its current funding levels? Should water quality monitoring be a higher priority for the state and regional boards? What specific steps could your board take to make monitoring more effective?

My Board is not adequately monitoring our waters using existing Surface Water Ambient Monitoring Program (SWAMP) funds. Staff uses our SWAMP resources to monitor all rivers, creeks, lakes, and reservoirs in the region. Because of lack of funds staff conducts pollutant and biological sampling on a rotating watershed basis resulting in a fifteen-year schedule to monitor all waters. Within the constraints of SWAMP funding for only one staff person, staff have worked to supplement this effort with monitoring by dischargers and other agencies, including the San Francisco Estuary Regional Monitoring Program (RMP) noted below. Staff also sustains a team of talented students using contract resources, which conducts a lot of sampling work, responds to data requests, and performs reconnaissance for establishing monitoring sites and stakeholder contacts in watersheds that are annually rotated into the SWAMP program.

Water quality monitoring should be a higher priority for both the State and regional boards, because the data from monitoring programs provides the basic information we and the public depend upon to develop priorities and make decisions on water quality management. SWAMP needs more sustainable funding in order to meet its role of providing much needed water quality data.

The San Francisco regional board has taken action to get optimum benefit from and to supplement SWAMP. Specifically, this board created the RMP and requires dischargers to contribute funds to support it. The RMP, which is administered by the San Francisco Estuary Institute, has an annual budget of \$3 million that provides comprehensive monitoring of water, sediment, and fish throughout the Bay.

South Bay Salt Pond Restoration

10. What is the goal of the South Bay Salt Pond Restoration Project?
 Which alternative will provide the best water quality for the project?
 Which alternative will provide the optimum fisheries and wildlife habitat restoration?

The goal of the South Bay Salt Pond Restoration Project is to restore the ponds area to its natural condition for beneficial use in scientifically sound methods.

the alternative evaluation process is only in its initial steps. At this time it appears that the 90 percent tidal alternative provides the best water quality and fish habitat. Changing salt ponds into tidal flats, channels and marshes would greatly benefit water quality, by providing a huge natural filter for pollution that was taken away when the salt ponds were historically diked off from the Bay. Additionally, tidal restoration will provide more flood protection, more biological productivity to create more bay life, provide nursery habitat for numerous aquatic species like California halibut and Dungeness crab, and help recover endangered species.

If the ponds are minimally exposed to tidal action or exchange bay fresh water with pond water, the ponds will continue to be diked and would need constant maintenance and monitoring for water quality. The diked ponds will require ongoing regulation by the board for discharge permits, because these ponds can stagnate and cause water quality and other problems such as algae blooms, low oxygen impacts to aquatic life, entrapment of migrating fish, fish kills, toxicity due to high salinity, uptake of mercury in the food web, and potential foul odors.

Toxic Blue-Green Algae

11. What is the extent and concentration of blue- green algae within your board jurisdiction?

Staff reports indicate detections of blue-green algae at levels below thresholds of concern in the Delta, Mallard Reservoir in northern Contra Costa County and Rodeo Lagoon on the coast in southern Marin County. Staff is not aware of any other levels of concern in our jurisdiction, but not much systematic monitoring has occurred.

12. What activities are planned by your board to deal with blue-green algae?

The issue of blue-green algae in surface waters of the San Francisco Bay Region is at a research stage and not a regulatory stage; staff is exploring the use of monitoring funds to study the issue further and set priorities for action where warranted. Such a commitment is dependent on the availability of monitoring funds.

13. Is your board participating in the blue-green algae state task force?

On November 8, 2005, U.S. EPA and the State Board held a workshop on blue-green algae, attended by staff of this board. This workshop formed a statewide task force on this topic, and our staff is actively tracking this effort, participating on an intermittent basis due to the limited resources available under SWAMP.

Local Flooding

14. How is the Napa River Flood Protection Project progressing? When will it be completed? What level of flood protection will the project provide?

Questions 14 through 16 address local flooding. While the regional boards are not flood management or land use agencies, they do need to approve flood management projects to ensure that they protect all beneficial uses of water for all the state's residents. The Napa River Flood Protection Project is an example where this approval role has successfully resulted in a project that both protects the public and its property and allows restoration of the Napa River floodplain, adjacent wetlands, and the water quality functions of the River.

Due to funding constraints, this project is behind schedule. It is approximately half-way done, and dependent on funding, all components of the project should be complete around 2011. The completed project as designed should provide protection against a 100- year flood.

15. Are there other opportunities within your board's region where the restoration of natural floodplains also can be accomplished? Where?

Restoration of natural floodplains is possible throughout our region, dependent on funding. The natural floodplains of such rivers as the Novato Creek, the Petaluma River, Sonoma Creek, and up-valley portions of the Napa River are the most likely candidates for floodplain restoration,

given their proximity to agricultural lands that tend to be less expensive to acquire for restoration than lands in urban areas. However, Contra Costa County has already started land acquisition in some already developed floodplains, such as lower Walnut Creek and Alhambra Creek. This board will continue to assist flood management agencies in these efforts.

16. Are there other types of alternative flood protection besides raising levees or raising the banks of streams that can or should be utilized? What are they?

Alternative flood control measures are:

- 1 Restoring a stream's natural flood plain is environmentally preferred and in the long run will provide more effective and sustainable property protection than attempts to contain a stream's flow between artificial banks or levees.
- 2 Controlling or slowing storm water runoff before it reaches the stream. Measures of control include reducing impervious surfaces, numerous practices to detain or slow down runoff, and/or increasing runoff infiltration into the ground. These measures have the multiple benefits of improving water quality, improving water supplies (more groundwater recharge), reducing peak floods, and lower long-term cost than "traditional" flood control projects. Our region has been a statewide leader in requiring development and implementation of plans that control the flow of stormwater runoff.

Cleaning up Impaired Waters

17. What specific steps do you support to get your regional board on schedule in identifying impaired waters and developing pollution loads that will lead to expeditious cleanup?

Most of our region TMDLs, particularly those for San Francisco Bay, are exceedingly complex and require considerable data collection and analysis efforts. Never the less I have encouraged Board Staff to come up with a plan and a schedule for completing the Region's TMDLs.

By the end of this fiscal year, our Board will have taken action on TMDLs for one-third of the 270 impaired water quality listings in our Region. According to a written schedule, action will be taken on additional projects. By 2008 our region will address over half of the listings. Staff is aware that TMDLs are a high priority, and that the TMDLs must be implementable and result in real water quality improvements.

We have encouraged ongoing collaboration with dischargers and the environmental community for the development TMDLs. In addition the Board have embraced the Clean Estuary Partnership wherein Bay Area municipal stormwater and municipal and industrial wastewater dischargers are providing approximately \$1,000,000 annually to assist in developing TMDLs.

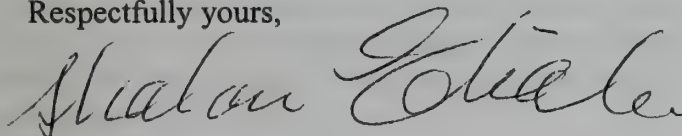
Water quality monitoring is the corner stone for identifying other waters that may be impaired. We are fortunate to have the RMP described in Question 9 that include Bay-wide monitoring of emerging pollutants of concern such as PBDE flame-retardants.

18. What steps would you take to implement identified pollutions loads? Do you think other agencies have a role in implementing these loads? If so, how would you ensure that they med this responsibility?

Regional board develops TMDLs and their implementation plans, rather implement the pollutant loads identified in those plans. All our regions TMDLs include (and will include) implementation plans, even though this is not required by U. S. EPA. As part of the development of TMDLs, our staff identifies responsible parties and evaluates implementation options. We seek commitment and accountability from dischargers and responsible parties, including other public agencies. For example, our staff has successfully collaborated with the State Department of Pesticide Regulations on the development of a TMDL for pesticide toxicity in our region's urban creeks. We expect to continue to use our Federal Clean Water Act and State Water Code authorities to implement TMDLs via NPDES permits, Waste Discharge Requirements, and/or conditional waivers of Waste Discharge Requirements.

Thank you for giving me the opportunity to present my responses to your questionnaire.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Shalom Eliahu". The signature is fluid and cursive, with the first name "Shalom" and last name "Eliahu" clearly distinguishable.

Shalom Eliahu

March 1, 2006

The Honorable Don Perata, Chairman
Senate Rules Committee, California Legislature
State Capitol, Room 420
Sacramento CA 95814-4900

Attention: Ms. Nettie Sabelhaus, Appointments Director

Dear Senator Perata:

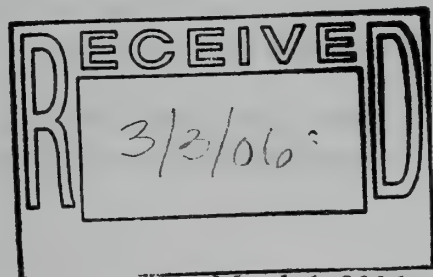
The following my response to the questions asked in your letter dated February 6th, 2006. Please let me know when confirmation of my position on the San Francisco Bay Regional Water Quality Control Board is scheduled, and if the committee would like me to appear.

1. What are your goals and objectives as a member of the San Francisco Bay Regional Water Quality Control Board? What do you hope to accomplish?

To protect and restore the water environment of the San Francisco Bay Region in ways that also have economic and social benefits. As population and our economy grow, and the environmental problems we face become more complex and difficult to solve, higher levels of support for water quality protection will be required from all sectors of society. Although the Bay Area is already quite supportive of environmental protection and restoration, investment in natural capital is far less than is necessary to sustain natural systems and the valuable ecosystem services they provide. The best way to ensure increased support for water quality protection and restoration in the future is to find – among the possible solutions to our conventional regulatory problems – solutions that also create other benefits.

For example, we need to systematically encourage, support, or require clean production technologies. These technologies prevent pollution and often increase labor productivity and hence wages. So-called “low impact development” techniques can be used to reduce urban runoff and pollutants in runoff, while creating more pleasant built environments and enhancing profitability for the companies that pioneer these technologies. Non-structural flood control is another clean technology I’ll speak to in response to another of your questions, below.

I hope to both persuade others to support this objective – although many do already – and to develop in collaboration with my fellow board members and staff policies that exemplify this approach in a simple and transparent way.



2. Do you receive adequate support from the state board and your regional board staff to assist you in better understanding some of the complex issues before you?

Support has been adequate so far. State Board legal staff has been helpful in explaining the conflict of interest rules and other procedural issues for new board members. Regional Board staff provides a monthly summary of work in progress that is very useful background for future actions that will be placed on our agenda. Agenda items, however, are often obscure. Staff have not yet, in my opinion, separated the policy issues and key facts that we need to know from the technical details they need to know. Reports are often too long, or if short, omit key information. Board members have excellent access to the executive officer of the board and all staff for answers to questions, but the answers are sometimes unsatisfactory. In some significant measure, these problems are the result of reduced budgetary resources for the Board system. I understand the statewide Water Board budget has declined by about 30% in the last decade.

3. Do you have any suggestions on how the state water board or your board's staff might better assist you?

Yes. A stronger effort needs to be made to reduce informational materials to their essence, with longer documents available as needed or appropriate. More strategic thinking is needed, including strategy sessions with the Board members. However, resource shortages and the requirements for public meetings are impediments to successfully making these improvements.

4. What training have you received to help you better understand when you might have a conflict of interest regarding an issue on your boards' agenda? How do you know when to withdraw yourself from voting on an issue? Have you done so since being appointed to this board?

An initial packet from the Governor's office, State Board legal staff briefing materials, and on-line resources have been adequate for this purpose. Yes, I have recused myself from participating on at least two occasions. At my first meeting in the spring of 2005, I recused myself from all action items other than the Tomales Bay TMDL because I was, at that time, chair of the Board of BayKeeper, a party to those items. I felt it was best to not participate until I understood the rules clearly. I subsequently resigned my post with BayKeeper in order to avoid even the appearance of conflict of interest, as required under the Governor's Executive Order on this topic. At a meeting last fall, I recused myself on a non-controversial permit for PG&E because I was compensated by PG&E for a class I taught at the Pacific Energy Center last year.

5. What is your view of the relationship between the state board and your regional board? Could coordination and accountability be improved? If so, how?

The State Board should serve in an appellate capacity and provide guidance and support on issues that affect more than one Region. The State Board should not substitute its

judgment for the judgment of Regional Boards unless the Regional Board has failed to comply with a statewide policy. Unfortunately, that has not been the practice in recent years. I have heard of appeals being filed because someone thinks they can get a "better deal" at the State Board. And State Board members have been diverted from important statewide or multiple-region work because they are hearing appeals that, in my opinion, should not be heard.

Our staff tells me that the relationship between State and Regional Board staff is reasonably good. Both organizations do their best to share their expertise and experiences. However, there is an inherent tension between State and Regional staff because the State Board can use the budget process to take resources from Regional Boards for statewide efforts such as permitting and enforcement. However, permitting and enforcement actions in the regions still require regional personnel, who then have reduced capacity to assist. Instead of taking resources away from the regions, the State Board should consider staffing its programs with temporary assignments of staff from the regions as a means to spread regional expertise statewide. State Board staff could also take temporary assignments at the regions. This system would exchange knowledge, build better relationships between the State and Regional Boards, and reduce tension over the budget. It might, however, founder on the cost of moving from region to Sacramento or reverse, at least for older staff with their own homes.

6. Are there specific areas of operation such as budget allocations that you think would benefit from increased transparency? What steps do you support to increase transparency of operations?

All information should be available through searchable and user-friendly websites, so that anyone can do their own research, and reduce their reliance on time-consuming Public Record Act requests. The budget is always difficult for neophytes to review.

Consequently, a summary document for the Board system alone would be helpful. Also, a transparent, annual priority setting process at both State and Regional levels would help to focus and increase the effectiveness of staff efforts and help the public or the regulated community to understand why our response time is sometimes slow (that is, because low priorities receive slow responses).

This Regional Board has been a nationwide leader in making data from discharger monitoring, regional monitoring, and sanitary sewer overflows accessible electronically to the public. Nonetheless, the record keeping system could be made more efficient. Staff spends many hours searching for records for internal or public use. The State should invest necessary resources to convert the entirety of the board's historical records into a searchable electronic form, which would more than repay itself in future labor savings, as well as please the public and regulated community.

7. Do you believe your regional board is adequately funded to enforce the state and federal laws you are charged with enforcing?

No, absolutely not. There were less than two positions specifically allocated to our region for enforcement last year, and State Board has further reduced each region's allocation this year. Most of this board's enforcement has been and will continue to be supported by using funds from other water quality programs. Unfortunately, this negatively impacts the performance of those programs. There are clearly efficiencies that can be obtained in operations, in my opinion, but these efficiencies are not large enough alone to permit all work mandated under current laws and regulations to be done.

8. Would the use of numeric limits in stormwater permits be an improvement over permits that rely on best management practices?

That depends on the ambient water quality standards in place, or that can be put into place. There is in practice no difference between an effluent standard and an ambient standard enforced at the point of discharge. Numeric ambient standards or narrative ambient standards that are unambiguous (e.g., 'there shall be no acute toxicity') are more than adequate to protect water quality, if promulgated and enforced, even without numeric effluent limits.

The difficulty, of course, is that standards adequate to protect receiving water beneficial uses are difficult to determine scientifically. Nonetheless, they should be pursued as a first-best solution to water quality protection or impairment.

When receiving water standards are difficult to create, a technology based numeric effluent limit may be appropriate. Indeed the secondary and tertiary wastewater effluent standards we are accustomed to were created for just this reason. A decision was made that certain technologies were affordable and available and would provide enough improvement in receiving water quality that they were worthwhile even in the absence of detailed receiving water studies and site specific ambient standards. Numeric effluent limits were then used to ensure the technologies were performing as expected.

A similar approach can be used with stormwater discharges when a best management practice reliably creates effluent of a specified quality. That quality might vary seasonally or on other bases (e.g, worse quality in the first storm or two of the season, better quality thereafter). But if reliable results can be obtained from various land use and stormwater management practices, numeric effluent limits would be appropriate. On the other hand, if reliable effluent quality cannot be obtained from specific technologies, numeric standards would not protect water quality and will simply become a point of contention. Better in that situation to invest in pilot projects and associated monitoring to develop technologies that reliably control stormwater effluent.

Our staff is also working on this issue now as it prepares a regionwide stormwater permit for municipal sources. We expect the issue to be controversial.

9. What do you expect of your new enforcement coordinator? How do you plan on measuring improvements in the enforcement activities at your Board?

While the board's funding for enforcement has been consistently cut and is extremely limited, to assure that enforcement is not overlooked amongst competing state and federal demands, board management appointed Alan Friedman as our region's enforcement coordinator in August 2005. He comes to this position with a long and varied experience in enforcement within our board. In this role, he serves as a liaison to the State Board's enforcement program, and works on improving the quality, consistency and tracking of our enforcement activities.

He has started by establishing a working group of enforcement coordinators from each of the board's divisions. This group meets monthly to define and recommend enforcement priorities to board management, discuss upcoming enforcement actions, and ensure consistency in enforcement approaches across all divisions. Alan also participates in the State Board's enforcement roundtables.

Our Executive Officer (EO) anticipates that we will have both greater uniformity and increased numbers of enforcement actions across all programs in the coming year. Our EO also expect that tracking of fine collection and public access to information on fines will continue to be improved, as well as public access to violations and the associated enforcement actions. Online availability of discharger monitoring data and online availability of data on and a geographic information system that provides locations of sanitary sewer overflows (including downloadable pictures of overflows), areas that this board has lead the nation on, are also important.

10. Is your board adequately monitoring water quality within its current funding levels? Should water quality monitoring be a higher priority for the state and regional boards? What specific steps could your board take to make monitoring more effective?

No, we cannot adequately monitor our waters with existing Surface Water Ambient Monitoring Program (SWAMP) funds. Staff uses SWAMP resources to monitor all rivers, creeks, lakes, and reservoirs in the region at a barebones level with pollutant and biological sampling on a rotating watershed basis that requires a fifteen-year cycle to monitor all waters. Within the constraints of SWAMP funding for only one staff person, staff have worked to supplement this effort with monitoring by dischargers and other agencies, including the San Francisco Estuary Regional Monitoring Program (RMP) described below. Staff also sustains a team of students using contract resources, who conduct sampling work, respond to data requests, and performs reconnaissance for establishing monitoring sites and stakeholder contacts in watersheds that are annually rotated into the SWAMP program.

Monitoring, data analysis, and results summaries, should be much higher funding and staffing priority because these efforts are the basic information we, the public, and the regulated community depend upon to develop priorities and inform decisions on water

quality management. Board staff is an active participant in the scientific and programmatic review of SWAMP that will assist a statewide redesign of the program. This redesign should better meet the needs of water quality managers by optimizing the development of accessible, high quality information to provide the basis for water quality decisions. However, without more sustainable funding, SWAMP will continue to fall short in its ability to inform all decisions.

Our staff are working diligently to get optimum benefit from and to supplement SWAMP. Specifically, this Board created the RMP and requires dischargers to contribute funds to support it. The RMP, which is administered by the San Francisco Estuary Institute, has an annual budget of \$3 million that provides additional but still inadequate monitoring of water, sediment, and fish throughout the Bay.

11. What is the goal of the South Bay Salt Pond Restoration Project? Which alternative will provide the best water quality for the project? Which alternative will provide the optimum fisheries and wildlife habitat restoration?

The goal of the South Bay Salt Pond Restoration Project is to prepare a scientifically sound and publicly supported restoration and public access plan that can begin to be implemented by 2008. The alternative evaluation process is only in its initial steps. Some people believe that the 90 percent tidal alternative provides the best water quality and fish habitat. Some bird species that have adapted to salt ponds, including migratory and resident waterfowl and shorebirds, would also benefit from an alternative that includes many diked ponds. Changing salt ponds into tidal flats, channels and marshes would greatly benefit water quality, by providing a huge natural filter for pollution that was taken away when the salt ponds were historically diked off from the Bay. Additionally, tidal restoration will provide more flood protection, more biological productivity to create more bay life, provide nursery habitat for numerous aquatic species like California halibut and Dungeness crab, and help recover two endangered species, perhaps taking them off the endangered species list.

Any alternative that maintains managed ponds in the project will require ongoing regulation by this board for discharge permits, because these ponds can stagnate and cause water quality and other problems such as algae blooms, low oxygen impacts to aquatic life, entrapment of migrating fish, fish kills, toxicity due to high salinity, uptake of mercury in the food web, and potential foul odors.

12. What is the extent and concentration of blue- green algae within your board jurisdiction?

Staff reports detections of blue-green algae at levels below thresholds of concern in the Delta, Mallard Reservoir in northern Contra Costa County, and Rodeo Lagoon on the coast in southern Marin County. Staff is not aware of any other levels of concern in our jurisdiction, but not much systematic monitoring has occurred.

13. What activities are planned by your board to deal with blue-green algae?

The issue of blue-green algae in surface waters of the San Francisco Bay Region is at a research stage and not a regulatory stage; staff is exploring the use of monitoring funds to study the issue further and set priorities for action where warranted. Such a commitment is dependent on the availability of monitoring funds.

14. Is your board participating in the blue-green algae state task force?

On November 8, 2005, U.S. EPA and the State Board held a workshop on blue-green algae, attended by staff of our board. This workshop formed a statewide task force on this topic, and our staff are actively tracking this effort, participating on an intermittent basis due to the limited resources available under SWAMP.

15. How is the Napa River Flood Protection Project progressing? When will it be completed? What level of flood protection will the project provide?

The Napa River Flood Protection Project is an excellent example of the multiple benefits approach raised in response to question number 1. It will both protect the public and its property from flooding and allow restoration of the Napa River floodplain, adjacent wetlands, and the water quality functions of the River. Due to funding constraints, this project is behind schedule. It is approximately halfway done. Dependent on funding, all components of the project should be complete around 2011. The completed project as designed should provide protection against a 100- year flood. However, land use changes in the watershed may cause the 100-year flood to result from more frequent storms (e.g., the 75-year storm). Structural and non-structural flood control projects will not provide adequate flood protection if the percentage of impermeable surfaces in the source watersheds is allowed to rise too far.

16. Are there other opportunities within your board's region where the restoration of natural floodplains also can be accomplished? Where?

There are. The natural floodplains of such rivers as the Novato Creek, the Petaluma River, Sonoma Creek, and up-valley portions of the Napa River are the most likely candidates for floodplain restoration, given their proximity to agricultural lands that tend to be less expensive to acquire for restoration than lands in urban areas. However, Contra Costa County has already started land acquisition in some already developed floodplains, such as lower Walnut Creek and Alhambra Creek. This board will continue to assist flood management agencies in these efforts.

17. Are there other types of alternative flood protection besides raising levees or raising the banks of streams that can or should be utilized? What are they?

Yes, these are variously called non-structural flood control or low-impact development techniques. Rather than confine flood flows in a channel, with levees heights often rising as water moves downstream (because water continues to join the stream and the channel

width is restricted), one can create overflow locations along the stream channel that flood lands that can tolerate periodic flooding. Often these are farmlands, although nature reserves (as along the Consumnes River) are also fine. Property owners may be paid for the right to flood them periodically (flood easements), and in fact they may make more money in this way than they would from their usual activity. If such payments are less expensive than higher levees, and they often are, those who pay for flood control may save money as well.

In addition, development techniques that slow or otherwise control runoff before it reaches streams can reduce the peak flows the streams must convey without flooding. Such measures include reducing impervious surfaces, numerous practices to detain or slow down runoff (e.g., grass-lined swales), and percolation basins and features that increase infiltration into the ground. These measures often have the multiple benefits of improving water quality, improving water supplies (more groundwater recharge), reducing peak floods, and lower long-term cost than "traditional" flood control projects. The Inland Empire Utilities Agency in southern California has found that it can supplement its water supply by about 50,000 acre-feet per year by managing land-use patterns to direct rainfall into the groundwater basin rather than into runoff. Our region is also working hard to lead the state in this area.

18. What specific steps do you support to get your regional board on schedule in identifying impaired waters and developing pollution loads that will lead to expeditious cleanup?

By the end of this fiscal year, our Board will have taken action on TMDLs for one-third of the 270 impaired water quality listings in our Region. In addition, nine additional projects are scheduled for completion by 2008 that address over 50 listings. We have made it clear to our staff that TMDLs are a high priority, but we have also made it clear that the TMDLs must be implementable and result in real water quality improvements.

We have encouraged ongoing collaboration with dischargers and the environmental community as we develop TMDLs, and we have embraced the Clean Estuary Partnership wherein Bay Area municipal stormwater and municipal and industrial wastewater dischargers are providing approximately \$1,000,000 annually to assist in developing TMDLs. Our TMDLs, particularly those for San Francisco Bay, are exceedingly complex and require considerable data collection and analysis efforts.

We hope to create TMDL templates as we proceed, and to spell out the strategic decision points for future actions as we adaptively manage implementation of the TMDLs. We may also consider watershed level permitting, with cap and trade provisions, as a method for achieving any given level of pollution reduction at lowest possible cost.

As for identifying other waters that may be impaired, we are fortunate to have the RMP described in Question 9 that includes Bay-wide monitoring of emerging pollutants of concern such as PBDE flame-retardants. However, as noted there, we realize our existing SWAMP resources are not sufficient to monitor our other waters in a timely manner.

19. What steps would you take to implement identified pollutions loads? Do you think other agencies have a role in implementing these loads? If so, how would you ensure that they meet this responsibility?

Most actions to reduce loads are taken by responsible parties other than our staff. Some of these responsible parties are other agencies, including state agencies like the Structural Pest Control Board, the Department of Pesticide Regulation (DPR), or US EPA. Usually, they are not direct dischargers, but have important authority that we either do not have or that we have only indirectly. For example, US EPA's phase-out of diazinon has been essential to recovery of Bay waters previously impaired by pesticide-related toxicity.

We have a critical role to play in identifying the strategic future decision points and the scientific studies, monitoring and data analysis required to make good decisions at those points. We need to productively and patiently communicate those strategies to all responsible parties and persuade them to take part. We also need to call these agencies to task if they do not take appropriate action to protect water quality. Our staff believes that it has successfully collaborated with DPR on the development of a TMDL for pesticide toxicity in our region's urban creeks. That may be the case, but we need to be prepared to exert pressure on DPR if effective actions do not occur. Fortunately, the director of DPR seems to be personally interested and supportive.

We will also, of course, use our Federal Clean Water Act and State Water Code authorities to implement TMDLs via NPDES permits, Waste Discharge Requirements, or conditional waivers of Waste Discharge Requirements. We will obtain and effectively use grant resources as available to implement TMDLs. For example, an integrated pest management program for urban pesticide users is being explored via a State Board grant to the Association of Bay Area Governments that we encourage and are participating in (ABAG).

Please let me know if you need any further information. I may be reached at 510 251 1600 x 102 (work) or 510 823 3935 (mobile). Please continue to use my home address for correspondence.

Sincerely,

Gary Wolff, P.E., Ph.D.
Principal Economist and Engineer
The Pacific Institute, Oakland California

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APPEARANCESMEMBERS PRESENT

SENATOR DON PERATA, Chair

SENATOR ROY ASHBURN

SENATOR DEBRA BOWEN

MEMBERS ABSENT

SENATOR JIM BATTIN, Vice Chair

SENATOR GILBERT CEDILLO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR BATTIN

CHRIS BURNS, Consultant to SENATOR ASHBURN

ALSO PRESENT

KEVEN P. STAR, Court Administrator

Division of Workers' Compensation

Department of Industrial Relations

DAVID SCHWARTZ

California Applicant Attorneys Association

JOEL HARTER, Associate Chief Judge

Division of Workers' Compensation

PAUL M. JOHNSON, Chief

Bureau of Security and Investigative Services

Department of Consumer Affairs

JAMES C. DIAZ, President

Chief Special Agents Association of Northern California

Certified Investigative Professionals

ALAN EDELSTEIN

California Alarm Association



1 CARL BRAKENSIEK

California Association of Licensed Repossessors

2 MARK MILLER, President

3 California Association of Licensed Security Agencies
4 (CALSAGA)

5 RANDY DAVIS, Past President

6 California Association of Licensed Security Agencies
(CALSAGA)

7 GERALD J. DESMOND, JR.

8 California Association of Licensed Investigators

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--ooOoo--

CHAIRMAN PERATA: We have two appointees appearing today, appointees of the Governor.

We're going to go out of order, Keven Star, this is with one "R." You're the cheap version.

[Laughter.]

MR. STAR: The original version.

CHAIRMAN PERATA: Administrator, Division of Workers' Comp. Welcome.

MR. STAR: Thank you, Senator --

CHAIRMAN PERATA: I thought you were going to stand because you didn't want to stay long. It's okay.

[Laughter.]

CHAIRMAN PERATA: Welcome.

MR. STAR: Thank you, Senator.

Good afternoon, Mr. Chairman and Senators. Thank you for the opportunity to address your committee on my appointment as the Court Administrator for the Division of Workers' Compensation.

Before I go further, I wanted to actually thank my wife, Orna, who's over there with my daughter, Ariel, in her lap, and my son Alon, who's next to her, and my dad.

[THE SENIOR MR. STAR FROM THE AUDIENCE] Thank you, and I'm very pleased and proud to be here today.

CHAIRMAN PERATA: We're proud to have you here, and we guarantee now safe passage.

[Laughter.]

1 MR. STAR: As you know an appointed Court
2 Administrator position was created with the passage of Assembly
3 Bill 749 in 2002, but the position was left vacant for years.
4 Since June 6th of 2005, I've performed the duties as the Court
5 Administrator, including administering the Workers' Compensation
6 Claims Adjudication System at the trial court level and
7 supervising 187 judges and 570 other personnel within the
8 division.

9 As Court Administrator, I've made it my goal to
10 ensure uniform, fair, and expeditious trial level proceedings to
11 achieve timely and appropriate compensation. Since the 2003
12 reforms, the landscape of Workers' Compensation law has
13 significantly changed. I'm committed to providing the judges
14 quality and effective training and support so that a uniform and
15 expeditious application of the law can take place, ensuring the
16 parties receive all their respective rights under the law.

17 Toward this goal I've endeavored to visit each of
18 the 24 district offices and meet as many of the people at the
19 Division of Workers' Compensation as possible. I've met with
20 judges and worked closely with the associate chief judges and
21 several presiding judges to develop a comprehensive training and
22 operational plan. This includes developing a set of procedures
23 to streamline the adjudication process as well as eliminate
24 unnecessary delays. The goal is to comply with the statutory
25 timeframes for trial level proceedings.

26 As our measures are undertaken, we've already
27 begun to see a reduction in the amount of time it takes a case
28 to move from the Declaration of Readiness to the hearing, and

1 then to the trial.

2 Since my appointment, I've emphasized the value
3 and importance of training for the judges. The first joint
4 training session took place in October of 2004, and the second
5 one started this morning in Los Angeles. And aside from the
6 judges, at this hearing there are going to be professional
7 staff, including information and assistance officers, and people
8 from the medical unit, other units within the division.

9 In addition, we have a system to provide a timely
10 notice to the judges when significant WCAB appellate and Supreme
11 Court decisions issue. I've also received and revised a draft
12 set of regulations governing judicial ethics and anticipate
13 implementing those changes within the year.

14 The vision from a decade ago was to have an
15 electronic case management system. The current claims
16 processing system's antiquated and paper-based. It requires
17 significant resources to monitor case movement. Within three
18 years from now, it's anticipated that there will be a
19 realization of that vision, the Workers' Compensation System
20 will be digital. Parties will file electronically; the file
21 will be accessible within the Division of Workers' Compensation
22 by multiple users simultaneously. So, for instance, the judges,
23 the information and assistance officers, and the raiders would
24 not have to shift the file, the paper file, amongst themselves.
25 They'll be able to access it electronically at the same time.
26 This will allow more expeditious file processing and enhance the
27 ability to share information.

28 I respectfully request your confirmation for my

1 appointment as Court Administrator. As the first person
2 appointed to the job, I hope to accomplish those goals and will
3 continue to work collaboratively with you in the future.

4 Thank you.

5 CHAIRMAN PERATA: Thank you.

6 Just as a general statement, I believe, probably
7 for everybody on the dais, the whole area of Workers' Comp has
8 been an extremely excruciating one for us. It's something like
9 the rain we've been having. Everybody's talking about it, but
10 it's much harder to deal with it.

11 We did pass SB 899, but one of the concerns that
12 we had going in was that whatever we did would not be done at
13 the expense of workers. We have talked to the Governor about
14 this. We fully intend to explore it again, because the evidence
15 from our end, what we've been hearing, and even though it's
16 anecdotal, when you hear enough of it you think there might be
17 some fire underneath the smoke.

18 How do the judges feel, if you can tell so far,
19 about SB 899? And are you getting any sense, the same sense
20 that we are, that there's some concern about the awards and the
21 victims?

22 MR. STAR: I think that the judges are mostly
23 concerned with the changing landscape. And what I've done is,
24 we're going back to the basics with respect to -- the prior body
25 of law existed over a 75-year period, and since 2003 there have
26 been significant changes to almost every area of Workers'
27 Compensation law.

28 So, I think that the judges are really focused

1 on, and in a positive fashion, learning about the new changes,
2 implementing the new changes, and being -- ensuring that all the
3 parties receive the benefits that they're entitled to under the
4 law.

5 CHAIRMAN PERATA: And you think in three years
6 you're going to be in the Twentieth Century probably?

7 MR. STAR: That's the hope. I think it'll
8 actually be less.

9 CHAIRMAN PERATA: Has that been funded?

10 MR. STAR: It is.

11 CHAIRMAN PERATA: So, it's just a question of
12 getting it up and de-bugged?

13 MR. STAR: Yes, sir. We're in the process of
14 the RFP right now. There's three RFPs: one for the independent
15 validation and verification; one for the actual project
16 management that was just awarded; and then the third one, the
17 big one, which we're in the bid review process is the
18 integration, which is the main project.

19 CHAIRMAN PERATA: Any questions from Members?

20 SENATOR BOWEN: I just have one question.

21 Where did you do your JAG training?

22 MR. STAR: My first assignment was Korea. And
23 after that I went to Monterey for a year, where I had
24 anticipated on getting out and staying back in the Bay Area, but
25 as fortune had it, the Base Realignment and Closure nipped that
26 in the bud, and so they said, "Where you would like to go? We
27 owe you because you were supposed to be here for two-and-a-half
28 years, and it's only been four months," so they sent me to

1. The first part of the document is a letter from the President of the United States to the Congress, dated January 1, 1801. It contains a statement of the President's views on the state of the Union and the progress of the government.

2. The second part of the document is a report from the Secretary of the Treasury, dated January 1, 1801. It contains a statement of the financial condition of the United States and the progress of the government's financial affairs.

3. The third part of the document is a report from the Secretary of the Navy, dated January 1, 1801. It contains a statement of the naval condition of the United States and the progress of the government's naval affairs.

4. The fourth part of the document is a report from the Secretary of the War, dated January 1, 1801. It contains a statement of the military condition of the United States and the progress of the government's military affairs.

1 Germany. That's where I met my wife, so it was a good thing.

2 And then after that we went to Texas. That was
3 my last active assignment, and I'm currently in the Reserves.

4 SENATOR BOWEN: All right. We'll forgive you for
5 the Texas part of it.

6 [Laughter.]

7 SENATOR BOWEN: Thank you.

8 CHAIRMAN PERATA: Anybody here that would like to
9 speak in favor of, please come forward.

10 MR. SCHWARTZ: David Schwartz, California
11 Applicants Attorneys Association.

12 First of all, Mr. Chairman, I'd like to thank you
13 for your opening comments. And even though I'm tempted, I won't
14 try and answer the question that you asked Mr. Star.

15 [Laughter.]

16 MR. SCHWARTZ: I will say that the expeditious
17 resolution of claims is extremely important for the delivery of
18 benefits to injured workers. I would like to commend Mr. Star
19 for the efforts he's made so far, and especially for his efforts
20 to reach out to the workers' compensation community to hear from
21 all sides as to what needs to be done for the administration of
22 the workers' compensation system.

23 And for those reasons we're in support of
24 Mr. Star.

25 CHAIRMAN PERATA: Thank you.

26 Next.

27 MR. HARTER: Mr. Chairman, Senators, my name is
28 Joel Harter. I am the Division's Northern California Associate

1 Chief Judge.

2 In that capacity, I've worked with Mr. Star for
3 the last ten months, starting --

4 CHAIRMAN PERATA: It seems like ten years.

5 [Laughter.]

6 MR. HARTER: Actually, it's been a pleasure
7 working with him. In fact, I started working with him on his
8 second day on the job. He spent four hours in my office going
9 over the nuances of workers' compensation and the claims
10 adjudication process.

11 Mr. Star is one of the first administrators that
12 we've had that has actually made a real attempt to go out to all
13 of the district offices and meet with the judges, and meet with
14 the professional staff, to find out what it's like to work
15 through the workers' compensation system at the trial level.

16 He has met most of the judges. He's met all of
17 the presiding judges. He's worked with the presiding judges and
18 the associate chief judges very, very closely in developing
19 these plans that he's described to you here today.

20 In addition to all of the things, the plans that
21 he's discussed and the goals that he's discussed with you, I'd
22 like to say that Mr. Star has fostered a sense of team work
23 amongst the judges and the professional staff. He's been open
24 to discussion and comments, while at the same time he has kept
25 his focus on the statutory mandates for his position. He's
26 enthusiastic, and he's positive.

27 I believe that he's dedicated to goals and
28 mandates that you've created for the position of Court

1 Administrator. And I believe that with his leadership the
2 Division is moving strongly towards meeting those goals and
3 mandates.

4 I am extremely grateful for the opportunity to
5 have to work with Mr. Star and would respectfully request your
6 confirmation of his position as Court Administrator.

7 Thank you very much.

8 CHAIRMAN PERATA: Thank you.

9 Anyone further?

10 Anybody here, and don't forget that wife and
11 child are here and his dad, so anybody want to speak in
12 opposition?

13 SENATOR ASHBURN: Let me move the confirmation.

14 CHAIRMAN PERATA: We have a motion to approve the
15 confirmation. Please call the roll.

16 SECRETARY WEBB: Ashburn.

17 SENATOR ASHBURN: Aye.

18 SECRETARY WEBB: Ashburn Aye. Bowen.

19 SENATOR BOWEN: Aye.

20 SECRETARY WEBB: Bowen Aye. Perata.

21 CHAIRMAN PERATA: Aye.

22 SECRETARY WEBB: Perata Aye. Three to Zero.

23 CHAIRMAN PERATA: We will keep roll open.

24 Congratulations.

25 MR. STAR: Thank you very much.

26 CHAIRMAN PERATA: Our other honoree is Paul
27 Johnson, Chief of the Bureau of Security and Investigative
28 services.

1 Mr. Johnson, welcome.

2 MR. JOHNSON: Thank you, Mr. Chairman, Members of
3 the Committee.

4 I want to thank you for the opportunity to appear
5 here today before you. It's an honor to be Governor
6 Schwarzenegger's appointee to the Chief of the Bureau of
7 Security and Investigative Services, and I look forward to this
8 presentation today.

9 I, of course, would like to take this opportunity
10 to introduce my family. My wife, Lydia, my daughters Alison and
11 Erica, and my mother Judy. With their support and continued
12 encouragement, I'm very fortunate to be here today.

13 CHAIRMAN PERATA: You have them in the front row.
14 That's very smart.

15 [Laughter.]

16 MR. JOHNSON: And especially to my wife, because
17 without that, without her patience, without her understanding,
18 she's kept me around for 25 years.

19 SENATOR BOWEN: I move the confirmation.

20 [Laughter.]

21 MR. JOHNSON: With that said, prior to my
22 appointment to the Bureau, I served in the Department of Justice
23 for nearly 30 years. During that period of time for the past 17
24 years, I had the opportunity to oversee several of the largest
25 criminal justice data bases in the nation, if not the world:
26 fingerprint identification system; the Criminal Justice criminal
27 history information; and for the past six years, I oversaw the
28 criminal history background check process for employment,

1 licensing, adoptions, and emergency placement of children. So,
2 I had the opportunity to very extensively broaden my
3 administrative managerial skills while over at the Department of
4 Justice.

5 Since assuming this position with the Bureau,
6 I've kept my focus on consumer protection, the mission of the
7 Department of Consumer Affairs, and have actively pursued all of
8 the things that I can do to fulfill this mission. Enforcement's
9 been a key issue. With that, I ensured that the effectiveness
10 of the Bureau's enforcement activities have remained consistent
11 and efficient. I have developed partnerships with law
12 enforcement, with the California DA's Association and district
13 attorneys throughout the state, to work to better consumer
14 protection, and that I've also kept up with the use of computer
15 technology and those resources that are out there that could
16 help us further make our operations more efficient and
17 effective.

18 Additionally, on top of that, I have worked
19 closely with our department's Division of Investigation to
20 utilize their resources and work with their partnership in
21 furthering the opportunity to consider taking on more
22 enforcement cases.

23 It's also important to note that I have to
24 oversee a huge licensing operation as well. That's the
25 licensing of -- with a population of almost 350,000 applicants.
26 I am happy and proud to say that we have no backlogs in this
27 bureau.

28 In addition, during my tenure with the Bureau

1 I've added one million dollars and am increasing my staffing by
2 20 positions to further address the many challenges and needs
3 that the Bureau faces in the coming few years.

4 I've also had the opportunity to review the
5 Bureau's existing processes, and I'm looking at every way in
6 which I can to maximize those resources and utilize what I've
7 learned over the last several years in managing large operations
8 and making it more efficient.

9 With that said, I believe with my background,
10 with my extensive background in public safety, and working with
11 the staff that I have in this Bureau, I think I can continue to
12 play a very productive role in continuing the many successes
13 that the Bureau's achieved over the previous few years. And I
14 will commit today, as I did when I took my oath of this office,
15 that I will fulfill these duties and intend to carry out all the
16 responsibilities of this position.

17 I want to thank you for this opportunity, and I'd
18 be more than happy to take any of your questions.

19 CHAIRMAN PERATA: Thank you.

20 We've had you do a lot of licensure, I guess, for
21 people who are doing, for want of a better word, the Homeland
22 Security, some of the aspects of that. And I know in our area,
23 we have a number of private security companies that work in
24 tangent to TSA in and around the ports.

25 How would you describe these? These are now much
26 higher profile positions than just somebody that's working a
27 card key entry into an office building. How have you had to
28 adjust to that, and how much of a priority is that taking now?

1 MR. JOHNSON: Senator, Mr. Chairman, one of the
2 major things that the Bureau has accomplished in the past recent
3 year, anyway, is we have developed a training program with
4 weapons of mass destruction and terrorism awareness for the
5 private security industry. It's a training program that was put
6 together in conjunction with Homeland Security, law enforcement,
7 subject matter experts, UC Irvine, and several other private
8 industry participants.

9 That program, to say to this, is it's a program
10 that's been recognized nationwide and internationally as a model
11 that has been adapted and adopted by many and several other law
12 enforcement and private security regulators in the United
13 States.

14 What -- I guess what puts it over and above as
15 far as the training perspective, we are also now including that
16 in a regulatory package that will be mandated training for the
17 private security industry as part of the existing 40-hour
18 requirement that's currently in place. That's one effort that
19 we're making.

20 The other effort that we're now taking a look at,
21 and I am working with our Office of Homeland Security, is
22 identifying some of those high-risk areas, airports, ports,
23 nuclear sites, power plant locations, that we possibly can find
24 out whether or not they are contracting with private security.
25 Some are. Some are doing it with their local law enforcement.
26 And I plan on extending our outreach efforts that we have in
27 place today to go out and meet with them, make sure that the
28 proper training has been given, that they are properly licensed,

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the transparency and accountability of the organization. The document outlines the various methods used to collect and analyze data, ensuring that the information is reliable and valid. It also mentions the need for regular audits to verify the accuracy of the records.

The second part of the document focuses on the financial aspects of the organization. It provides a detailed breakdown of the income and expenses, showing how the funds are allocated and used. The document highlights the importance of budgeting and financial planning to ensure the organization's long-term sustainability. It also discusses the various sources of funding and the challenges faced in securing additional resources.

The third part of the document addresses the operational aspects of the organization. It describes the various programs and services provided, as well as the personnel involved in their delivery. The document emphasizes the need for efficient management and coordination to ensure that the organization's goals are achieved. It also mentions the importance of maintaining good relationships with the community and other stakeholders.

The fourth part of the document discusses the future plans and goals of the organization. It outlines the various initiatives and projects that are planned for the coming year, as well as the resources needed to implement them. The document also mentions the need for ongoing evaluation and monitoring to ensure that the organization is meeting its objectives and making progress towards its goals.

1 and that there are no issues in regards to the particular site
2 that they're working.

3 CHAIRMAN PERATA: Do you license firearms, or is
4 that done locally?

5 MR. JOHNSON: We issue -- the actual issuance of
6 the firearm permit for security officers is done through our
7 office in conjunction with the Department of Justice's Firearms
8 Division that gives us the firearms eligibility check through
9 the criminal history, fingerprint check.

10 CHAIRMAN PERATA: So, you're the issuing agency?

11 MR. JOHNSON: We would be the issuing agency
12 based on the fact that it is being certified by a licensed
13 firearms facility that has given the proper training. In
14 conjunction with that proper firearms training, and the firearms
15 check through the Department of Justice, they then are issued a
16 firearms permit through BSIS, yes, sir.

17 CHAIRMAN PERATA: You mentioned that all of your
18 licensees are current. How are you on the other end in terms of
19 compliance, enforcement, and I know you've got about seven field
20 offices? How is the enforcement side? Is it adequate?

21 I notice you have a reserve. That always
22 attracts my attention.

23 MR. JOHNSON: Mine too, sir.

24 One of the initial things, and one of my
25 continued priorities in this Bureau is to continually review and
26 oversee what the current enforcement activities are.

27 Coming in, we are now fully staffed. I have a
28 seasoned enforcement manager overseeing our enforcement

1 activities.

2 I have an outreach program that I have an
3 individual assigned to that is going out and proactively meeting
4 with new licensees and existing licensees to ensure that they're
5 properly trained, they are in compliance, and there are no
6 enforcement issues that could possibly crop up in the future.

7 The additional thing that I am doing, as I
8 mentioned, I am going to be filling approximately 20 vacancies
9 in the very near future here, and enforcement will also focus in
10 that area.

11 The additional thing I'm doing, as I mentioned in
12 my opening statement, I'm working closely with our Division of
13 Investigation who has field offices. The Bureau in and of
14 itself, sir, does not have any field offices in California.
15 What I'm doing is, though, is working in conjunction with our
16 Division of Investigation, which does have field offices in
17 Southern California, and be able to recruit and put in place a
18 resource without having to look for facilities or anything to
19 that extent for this Bureau, and work with them to work out of
20 their Southern California offices to place individuals in the
21 Southern California region.

22 CHAIRMAN PERATA: Thank you.

23 Members?

24 SENATOR BOWEN: I think only a couple concerns.
25 One is the time that it's taking to investigate complaints.

26 Senate Budget Subcommittee apparently raised this
27 issue in a hearing, and the complaints are taking as long as 140
28 days. So, how do we get that resolved?

1 MR. JOHNSON: We recently took a look at the
2 data, and we did see the increase for the previous two fiscal
3 years, that it's gone up from the traditional or historical
4 101-day average turnaround time on case closure.

5 What we are addressing, and that effect again is
6 from the proactive standpoint, the first thing I would like to
7 do is certainly reduce those numbers of complaints or of cases
8 that have been opened.

9 The second part, what I'm addressing here is
10 to -- we're looking at the internal processing and the
11 efficiencies within the Bureau in and of itself. I've achieved
12 some efficiencies on the licensing side. I'm looking at
13 redirecting resources more over to the enforcement side.

14 As I also mentioned, that it's my anticipation
15 with the addition of these new positions coming in, I can assign
16 additional resources to also address the number of cases that
17 are taking the extra 40 days or so to get closed.

18 On top of that, again, it's working closely
19 internally with our Division of Investigation and ferreting out
20 those cases that I feel that we can assign over to a seasoned,
21 sworn peace officer-investigator to take on a certain caseload
22 as well.

23 So, in combination with those efforts, I
24 certainly anticipate if not within this first year of my tenure,
25 definitely within the next two fiscal years I intend to reduce
26 that, hopefully, down to at least a 90-day turnaround average.
27 That's my anticipation.

28 SENATOR BOWEN: Thank you.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes the need for transparency and accountability in financial reporting.

2. The second part of the document outlines the various methods and techniques used to collect and analyze data. It includes a detailed description of the experimental procedures and the statistical analysis performed.

3. The third part of the document presents the results of the study. It includes a series of tables and graphs that illustrate the findings of the research. The data shows a clear trend in the relationship between the variables studied.

4. The fourth part of the document discusses the implications of the findings. It highlights the potential applications of the research in various fields and the need for further investigation in this area.

5. The fifth part of the document concludes the study. It summarizes the key findings and provides a final statement on the overall results of the research.

6. The sixth part of the document includes a list of references and a bibliography. It cites the various sources used in the research and provides a comprehensive overview of the literature in this field.

7. The seventh part of the document contains a list of appendices. It includes additional data, figures, and tables that are not included in the main body of the document.

8. The eighth part of the document includes a list of footnotes and a glossary. It provides definitions for the various terms used in the document and includes additional information that is relevant to the study.

9. The ninth part of the document contains a list of acknowledgments. It thanks the various individuals and organizations that provided support and assistance during the course of the research.

1 I think the other question has to do with
2 compliance, particularly for companies that provide security in
3 high risk entities, and particularly ports, Oakland, Long Beach,
4 L.A.

5 MR. JOHNSON: And as far as the training, and
6 what is required by Assembly Bill 2880, that in July of 2005,
7 they're required to meet the mandated 40 hours and eight-hour
8 refresher courses.

9 What I am currently doing now, we have identified
10 those that are in compliance, and I must say, that represents 90
11 percent of the security officers that are out there today.

12 The remaining, what we're looking at doing is
13 identifying those that have not certified to the Bureau, and
14 that could be the company or the training facility that is
15 providing those training services to companies, is -- my
16 intention now is to identify those companies, notify them that
17 they're now on notice that they have not met the requirement,
18 and they have a specified timeframe, 60 days is my anticipation,
19 to come into compliance or they will be hearing from us.

20 SENATOR BOWEN: Do you have any means of
21 prioritizing the security guards who work in those more high
22 risk facilities as opposed to the typical kind of shopping mall
23 situation?

24 MR. JOHNSON: The training across the board
25 statutorily is the mandatory 40 hours of training.

26 SENATOR BOWEN: I'm not asking about the
27 training.

28 I'm asking about determining whether there is

1 compliance, and dealing with complaints, and just basically
2 staying more on top of the places where the risks are greater.

3 MR. JOHNSON: Exactly. And that, as I mentioned,
4 what I want to do, what we're in the process of doing, is
5 identifying those specific -- and I'm working with the Office of
6 Homeland Security to identify those specific areas of high risk,
7 whether it be a nuclear facility, a port, an airport, a dam
8 site, a water treatment area, where we can identify where
9 private security is contracted by that facility to do those
10 services.

11 What I do know is, it's across the board right
12 now. Local law enforcement oftentimes -- some of these -- some
13 of the situations, nuclear sites, for example, are on military
14 reservations, and there's really no jurisdiction there for me.

15 So I -- my first goal here is to identify those
16 high risk areas and ensure that compliance is there. And by
17 utilizing that outreach effort that I have, I'm trying to do it
18 in a way that I want to ensure that the training and the proper
19 individuals that are working at those sites are the right
20 individuals to be there.

21 SENATOR BOWEN: All right.

22 Thank you.

23 CHAIRMAN PERATA: Anybody here that would like to
24 speak in favor of the applicant?

25 MR. DIAZ: Chairman Perata and Members of the
26 Committee, my name Jim Diaz. I'm here today representing
27 essentially two organizations. The primary one is the Chief
28 Special Agents Association of Northern California, founded in

1 1927. We represent -- our membership includes those security
2 and investigative professionals both from contract and
3 proprietary firms.

4 We've had the pleasure to have Mr. Johnson come
5 and meet with our organization and extend his outreach program
6 to our membership to help improve the consumer protection and
7 the professionalism of our organization as well as our
8 industry. And we strongly support his confirmation as the Chief
9 of the Bureau of Security and Investigative Services.

10 I believe you have a letter that we sent in to
11 all the Members.

12 I'm also representing, where I am the Chair of
13 the Advisory Board for the Certified Investigative
14 Professionals. This organization is another trade association
15 that represents several hundred private investigators from
16 throughout the state, and I bring a letter of support from our
17 Chairman Emeritus, Glen Goodman.

18 CHAIRMAN PERATA: Thank you, sir.

19 Mr. Edelstein.

20 MR. EDELSTEIN: Mr. Chairman and Members, Alan
21 Edelstein, representing the California Alarm Association. Our
22 members provide -- install and provide and monitor both burglar
23 and fire alarm systems for both residences and commercial
24 property.

25 And they are very pleased to support the
26 confirmation of Mr. Johnson. They have found Mr. Johnson to be
27 very open, interested in trying to make the Bureau work more
28 effectively and more efficiently, and very interested in

1 protecting the consumers, while being practical and taking into
2 consideration the needs of business to have clear rules and an
3 efficient operating system.

4 So, we are pleased to support his confirmation.

5 CHAIRMAN PERATA: One of your constituent members
6 of the Alarm Association is my provider. He speaks very highly
7 of you.

8 MR. JOHNSON: Thank you, sir.

9 CHAIRMAN PERATA: I'm surprised.

10 [Laughter.]

11 CHAIRMAN PERATA: Not that he spoke highly of
12 you, but he was so conversant with you.

13 MR. BRAKENSIEK: Mr. Chairman and Members, Carl
14 Brakensiek on behalf of the California Association of Licensed
15 Repossessors.

16 I'll take Mr. Edelstein's lead and explain that
17 our industry, if you don't make your car payments, will come and
18 take your car.

19 [Laughter.]

20 CHAIRMAN PERATA: That's a nice, clean way to
21 express it.

22 [Laughter.]

23 MR. BRAKENSIEK: It's a pleasure to support Chief
24 Johnson. He has continued the tradition that began with Chief
25 Giorgi as far as being very pro-consumer as well as
26 pro-business. He achieves the balance. He is very easy to work
27 with. His door is always open.

28 He has expressed a number of concerns. We have

1 had the ability to discuss our concerns with him, and he's been
2 very responsive.

3 We are very pleased to have him as our regulator
4 and urge you to confirm him.

5 CHAIRMAN PERATA: Thank you.

6 MR. MILLER: Good afternoon, Mr. Chairman and
7 Members. My name is Mark Miller. I'm with Secure Toss Security
8 Services, and I am the President of CALSAGA.

9 CALSAGA is the industry association for contract
10 security companies in the State of California. I am here on
11 behalf of over 200 member companies which employ over 50,000
12 security officers in the state.

13 And we are in support of Paul Johnson, Paul's
14 confirmation as Chief of the Bureau of Security and
15 Investigative Services.

16 As you know, Paul is extremely well qualified,
17 after having served in the Department of Justice for 30 years.

18 In recent years, California has made major
19 strides in professionalizing the contract security industry in
20 California by mandating DOJ and FBI background checks for all
21 security officers prior to assigning them to a post.

22 In addition to that, California, as you heard
23 Paul say earlier, has dramatically increased the training
24 requirements for security officers, probably the most stringent
25 in the nation.

26 Last year, CALSAGA successfully sponsored Senate
27 Bill 194 which requires registration with the Bureau and a DOJ
28 and FBI background check for all uniformed security officers,

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that this is essential for ensuring transparency and accountability in the organization's operations.

2. The second part outlines the specific procedures and protocols that must be followed when recording transactions. This includes details on how to categorize expenses, how to handle receipts, and the frequency of record-keeping.

3. The third part addresses the role of the accounting department in managing these records. It describes the various tasks and responsibilities that the accountants must perform to ensure that all data is correctly entered and maintained.

4. The fourth part discusses the importance of regular audits and reviews of the records. It explains how these checks help to identify any discrepancies or errors and ensure that the records remain accurate and up-to-date.

5. The fifth part provides information on the legal requirements for record-keeping. It details the specific regulations that apply to the organization and the consequences of failing to comply with these rules.

6. The sixth part discusses the importance of data security and protection. It outlines the measures that must be taken to ensure that all records are stored securely and are protected from unauthorized access or loss.

7. The seventh part provides a summary of the key points discussed in the document. It reiterates the importance of accurate record-keeping and the need for strict adherence to the outlined procedures and protocols.

8. The eighth part concludes the document with a statement of commitment to transparency and accountability. It expresses the organization's dedication to maintaining high standards of record-keeping and its commitment to providing accurate and reliable information to all stakeholders.

1 not just contract security. And as such, California is the
2 first state in the nation to regulate proprietary in-house
3 security.

4 We have been working with Mr. Johnson and his
5 staff on the implementation of Senate Bill 194, and they have
6 been extremely professional and fair.

7 CALSAGA's top priority this year, in alignment
8 with what others have said here today, is better compliance and
9 greater regulatory enforcement of existing laws so that
10 consumers and the public are safe, and so that companies and
11 employees who are complying with the laws affecting our industry
12 are not undercut by shady and unlicensed operators.

13 Mr. Johnson has assured us that he shares our
14 priority, and as such, I respectfully request that you support
15 the confirmation of Mr. Johnson.

16 Thank you.

17 CHAIRMAN PERATA: Thank you.

18 MR. DAVIS: Mr. Chairman and Members, my name is
19 Randy Davis. I'm with Allied Barton Security Services. I'm the
20 immediate past President of CALSAGA prior to Mark taking over.
21 I'm now the Chairman of our Legislative and Public Policy
22 Committee.

23 I want to agree with Mr. Miller's comments about
24 our working relationship with Paul. I want to just give you a
25 quick story about his prior position when he was with the
26 Department of Justice.

27 As was mentioned, we support mandatory criminal
28 background checks for security officers, but when the first --

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that this is essential for ensuring transparency and accountability in the organization's operations.

2. The second part outlines the various methods and tools used to collect and analyze data. It mentions the use of surveys, interviews, and focus groups to gather information from stakeholders. Additionally, it discusses the application of statistical software to process and interpret the collected data.

3. The third part describes the results of the research and the conclusions drawn from the analysis. It highlights the key findings and their implications for the organization's strategy and decision-making processes.

4. The fourth part provides a detailed discussion of the limitations of the study and the potential areas for future research. It acknowledges the constraints of the sample size and the scope of the investigation, while also suggesting directions for further exploration.

5. The final part of the document offers recommendations and suggestions for implementing the findings. It provides practical advice on how to integrate the research results into the organization's existing framework and processes.

Page 1 of 1

1 when the system first came on line, it really wasn't working as
2 well as we all would hope. We went to then-BSIS Chief Giorgi
3 and tried to work out some possible ways to improve the system,
4 and let quality companies comply with the law, and to get more
5 people to work.

6 Paul was very instrumental in working with us,
7 and we were able to make dramatic improvements in the system,
8 allowing us to hire people and get them out to work more
9 quickly, while also maintaining consumer and public safety
10 protection.

11 But now with Paul moving over to BSIS, I think
12 that gives him qualifications to continue ensuring that the
13 system of criminal background checks works as was promised to
14 the citizens of California.

15 And I echo Mr. Miller's strong support for his
16 confirmation.

17 CHAIRMAN PERATA: Thank you.

18 MR. DAVIS: Thank you.

19 MR. DESMOND: Mr. Chairman and Members, Jerry
20 Desmond, Jr., representing the California Association of
21 Licensed Investigators. CALI is the trade association
22 representing 2,000 of the licensed private investigators
23 throughout the State of California.

24 We'd like to add our request and support for
25 confirmation of Chief Paul Johnson. We had met him early on
26 since his appointment, and have been able to work with him
27 throughout the period, and have been impressed with not only the
28 skills and background that he brings to the position, but his

1 not only well earned reputation for integrity, but the open
2 dialogue we've been able to have. We know he's a
3 straight-shooter. We think that will benefit the consumers of
4 the state as well as the people who are licensed.

5 Thank you.

6 CHAIRMAN PERATA: Thank you.

7 Anyone here in opposition? Seeing none.

8 SENATOR ASHBURN: Motion.

9 CHAIRMAN PERATA: We have a motion to approve
10 confirmation. Please call the roll.

11 SECRETARY WEBB: Ashburn.

12 SENATOR ASHBURN: Aye.

13 SECRETARY WEBB: Ashburn Aye. Bowen. Perata.

14 CHAIRMAN PERATA: Aye.

15 SECRETARY WEBB: Perata Aye. Two to Zero.

16 CHAIRMAN PERATA: What happened to Senator
17 Bowen?

18 SECRETARY WEBB: She must have stepped out for a
19 moment.

20 CHAIRMAN PERATA: She wanted to see if her car
21 was still there.

22 [Laughter.]

23 CHAIRMAN PERATA: She'll be right back.

24 We have couple members who are presenting bills
25 in other committees.

26 MR. JOHNSON: If I may, sir, if you could indulge
27 for a second --

28 CHAIRMAN PERATA: Sure.

1 MR. JOHNSON: I would be remiss. There are
2 several individuals here today that came in my support. My
3 former co-workers that are here today support me. I want -- it
4 would be remiss if I didn't thank them. I wouldn't be in
5 several of the places, and certainly not before you today
6 without a lot of support and a lot of help.

7 My former co-workers and my current staff who --
8 sir, if I even could hand-pick, I couldn't ask for a better
9 staff to work with. They have been tremendous to be working
10 with since I've been there.

11 And also there are several other distinguished
12 guests that are here today in my support, and I want to thank
13 them because they've taken time out of their busy schedules to
14 be here to do that.

15 CHAIRMAN PERATA: They all look like they'll
16 remind you of that at some point.

17 [Laughter.]

18 CHAIRMAN PERATA: Thank you. Nicely done.

19 MR. JOHNSON: Thank you.

20 CHAIRMAN PERATA: As soon as she steps back in
21 we'll send you along.

22 [Thereupon the Rules

23 Committee acted on

24 Legislative Items.]

25 CHAIRMAN PERATA: Senator Bowen is here. Open
26 the roll, please.

27 SECRETARY WEBB: Senator Bowen.

28 SENATOR BOWEN: Aye.

1 SECRETARY WEBB: Bowen Aye. Three to zero.

2 CHAIRMAN PERATA: Three to zero, congratulations.

3 MR. JOHNSON: Thank you.

4
5 [Thereupon this portion of the
6 Senate Rules Committee hearing
7 was terminated at approximately
8 2:12 P.M.]

9 --ooOoo--

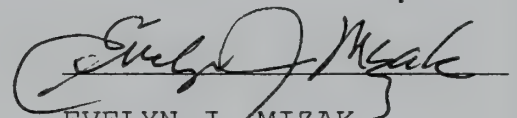
CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of April, 2006.


EVELYN J. MIZAK
Shorthand Reporter

APPENDIX



STATEMENT OF GOALS OF KEVEN P. STAR

In response to the request for a statement of my goals as Court Administrator, I respectfully submit the following points for the Senate Rules Committee to consider.

The California Constitution vested in the Legislature plenary power to create and enforce a complete system of workers' compensation. The Legislature created a compulsory workers' compensation law, including a dispute resolution system made up of judicial and administrative bodies to ensure fair and expeditious resolution of disputes arising out of claimed work injuries.

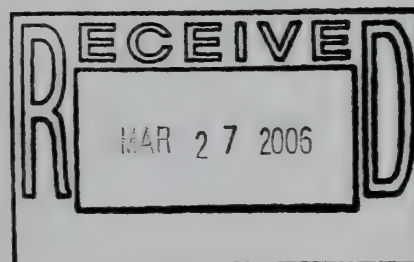
The position of Court Administrator was created to be the administrator of the workers' compensation adjudicatory process at the trial level. Accordingly, the Court Administrator is charged with supervision of the Workers' Compensation Administrative Law Judges and ensuring that the proceedings at the trial level are conducted uniformly, fairly and expeditiously. To meet these mandates, the following are my goals as Court Administrator.

SHORT TERM GOALS

- Assure uniformity in application of the law and procedures.
- Provide comprehensive ongoing training in law and procedures for judges and staff.
- Ensure compliance with LC section 5502 timelines.

LONG TERM GOALS

- Adopt a comprehensive and uniform set of policies, procedures and forms designed to expeditiously and effectively resolve disputes.
- Implement a technologically advanced system to more efficiently receive, process, review and adjudicate disputes.
- Assist the Administrative Director with drafting and adoption of comprehensive standards of ethical conduct for Workers' Compensation Administrative Law Judges, to be enforced by the Court Administrator.



THE HISTORY OF THE UNITED STATES

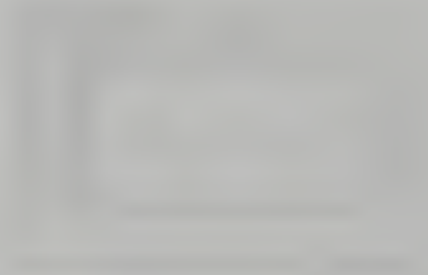
OF THE UNITED STATES OF AMERICA
FROM THE FIRST SETTLEMENTS TO THE PRESENT TIME

BY
JAMES OSGOOD
OF THE BUREAU OF THE CENSUS
AND
OF THE BUREAU OF THE GEOGRAPHICAL NAMES

NEW YORK
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These goals are designed to meet the statutory mandates for the Court Administrator position and are consistent with the Constitutional mandate that the administration of the workers' compensation legislation accomplish substantial justice in all cases expeditiously. The process of meeting these goals has already begun and is at various stages of completion. Approximately 300,000 new filings are received each year and the 24 various workers' compensation district offices conduct approximately 350,000 trial level hearings each year. All of the goals described above must combine to ensure the fair, impartial, efficient and expeditious adjudication of workers' compensation disputes. I hope that I will be given the opportunity to continue the process of meeting these goals and working to move the Division of Workers' Compensation forward in that direction. To that purpose I respectfully request confirmation as Court Administrator.

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**RESPONSES TO QUESTIONS RAISED BY THE SENATE RULES COMMITTEE FOR
CONFIRMATION OF:**

**PAUL JOHNSON, CHIEF
BUREAU OF SECURITY AND INVESTIGATIVE SERVICES**

HEARING DATE: APRIL 5, 2006

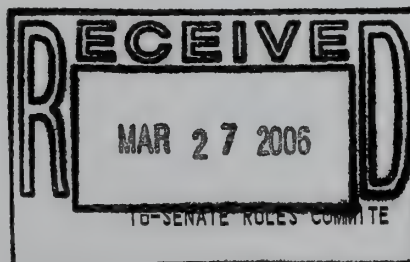
1. What are your goals and objectives as Chief of BSIS? What do you hope to accomplish during your tenure?

- Improve the quality, effectiveness, and efficiency of licensing and enforcement activities.
- Implement provisions of SB 194, Proprietary Private Security Officers Act.
- Expand the Bureau's Information Outreach effort to provide education, training, and information regarding statutory requirements for new and existing licensees.
- Formation of an Advisory Committee representing industry and public members to address issues involving consumer protection and the security industry.
- Continue to meet and work with all of the industries' formal associations to maintain a close working relationship and partnership.
- Enhance the Bureau's Web page. Improve services and communications with consumers, applicants, licensees and industries.

Within the scope of the described goals and objectives it is my overall hope and ambition to further refine and improve upon the Bureau's primary mission of consumer protection. I intend to protect California consumers from potential harm caused by unscrupulous industry practitioners and unlicensed activity. I will also solicit information and opinions from industry associations and individuals while trying to maintain a balance between public protection and the efficiencies of the free market enterprise.

2. What skills, experience, and expertise do you bring that will be of value to BSIS?

Prior to my appointment as Chief of the Bureau of Security and Investigative Services (Bureau), I was a DOJ Administrator III. This entailed 17 years in management in Fingerprint Identification, California Criminal History System, and Applicant Processing Programs.



Specifically, for the last six years I was overseeing applicant processing for over 1.5 million California criminal history checks and 950,00 national FBI background checks with a staff of approximately 150 people in a two-shift operation in Licensing, Employment, Certification, Adoptions, and Emergency Placement of Children.

Since 1997, I have represented DOJ as a Federal Bureau of Investigation Committee member on the National Identification Services Subcommittee and the Integrated Automated Fingerprint Identification Task Force. The purpose of the Subcommittee and the Task Force is to provide policy recommendations to the National Policy Board on criminal identification and information issues.

3. What do you perceive are the major issues confronting the Bureau in the near future? How will you address these issues?

Enforcement and unlicensed activity are always areas of concern for any regulatory program. The Bureau regularly assesses our enforcement needs and is considering the following measures to ensure continued effectiveness:

1. The Bureau is currently seeking to improve enforcement effectiveness by focusing our efforts on preventive measures. As such, the Bureau has increased its Outreach Program to ensure that all new company licensees are knowledgeable of the law; have access to appropriate information; meet with Bureau representatives; and receive answers to all questions concerning legal operations.
2. The Bureau is considering ways to expand our presence in the Los Angeles region. We plan to accomplish this goal as efficiently as possible by hiring seasonal investigators such as retired annuitants. This allows the Bureau to expedite local enforcement by being in the Los Angeles area. More expedient site visits would reduce waiting times for mailed documents and improve timeliness on documentation of current business operations.
3. Finally, the Bureau is seeking to focus resources toward increasing our utilization of the Department of Consumer Affairs' Division of Investigation (Division). The Bureau currently employs the Division's services for cases that require the expertise and/or status of a sworn peace officer.

4. How do you propose to use the additional resources to implement SB 194?

SB 194 (Maldonado, Chapter 655, Statutes of 2005) enacts the Proprietary Security Services Act, affecting unarmed private security officers who are employed exclusively by any one employer and whose primary duty is to provide security services for his/her employer. A person who meets the definition of a

proprietary private security officer will be required to register with the Bureau, comply with a background check, and pay an application fee and renewal fee.

The Bureau intends to use the additional resources necessary to implement SB 194, as follows:

- Licensing
 - Application Processing*
 - Telephone Support*
 - Licensee/Applicant Assistance*
- Cashiering
- Mail Services
- Enforcement Activities
- Information Technology/Data Processing
 - I-Licensing*
 - Web Page*
 - Enforcement & Licensing Databases*

5. Please describe BSIS' efforts to ensure the implementation of the higher training standards mandated by AB 2880.

The Bureau, in partnership with industry experts, developed a Skills Training Course for Security Guards, (California Code of Regulations Article 9, Section 643) to provide the outline of mandated and elective training courses in compliance with AB 2880 (Chavez, Chapter 886, Statutes of 2002). This partnership in the development of the training helped assure full support of the training course requirements by the industry. All Private Patrol Operators are required to inform the Bureau on whether their guard training will be performed in-house, by an outside entity, or that the business will only hire guards that have already obtained all required training. Approval must be received from the Bureau prior to implementation of any training program seeking to comply with AB 2880 requirements.

In July of 2004, a mass mailing was sent to all licensed Private Patrol Operators providing instructions on how to submit and obtain approval of their training programs. An additional mass mailing was sent out 12 months later to remind those businesses that had not yet submitted information on how their guard staff would meet the training requirements.

The Bureau provides each business with an official approval letter for use of the particular training method they have chosen. A copy of the approval letter and the approved training course program adopted by the licensee is maintained in the Bureau's files.

Currently, through the Bureau's Outreach Program, and investigation site visits, the Bureau visits an average of 20 Private Patrol Operator businesses monthly.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes the need for transparency and accountability in financial reporting.

2. The second part of the document outlines the various methods and techniques used to collect and analyze data. It includes a detailed description of the experimental procedures and the statistical analysis performed.

3. The third part of the document presents the results of the study. It includes a series of tables and graphs that illustrate the findings of the research. The data shows a clear trend of increasing activity over time.

4. The fourth part of the document discusses the implications of the findings. It suggests that the results have significant implications for the field of study and may lead to further research in this area.

5. The fifth part of the document concludes the study. It summarizes the main findings and provides a final statement on the importance of the research.

As a part of the visit, staff ascertain compliance with existing business laws, including the requirements of the Skills Training Course for Security Guards. Further, as a part of each investigation into complaints concerning Private Patrol Businesses, the Bureau verifies that the business has training program information on file with the Bureau, that the program has been approved and that the training program has been implemented as approved.

6. How Does BSIS monitor and identify problem companies for compliance with applicable rules? What efforts is BSIS engaging in to assure independent investigation once violations are identified?

The Bureau receives information on rule, regulation and law violations that is used to identify, investigate and monitor licensed and unlicensed businesses and employees from several various sources including:

- Consumer complaints received via the Department's on-line complaint system, mailed/faxed information and/or complaints, and telephone calls;
- Licensees that report violations of their competitors;
- Local, State and National Enforcement agencies working on investigations within their jurisdictions that involve the Bureau's licensees;
- Newspaper/television/radio accounts of crimes involving licensees;
- On-line searches of yellow pages for license advertising violations;
- Information obtained from office visitations performed by the Bureau's Outreach Staff; and,
- Information obtained from industry association members.

Once the Bureau receives information concerning a potential violation of rules, regulations, or law, an initial investigation is opened and a determination is made on how the Bureau can best verify the existence of a violation by obtaining relevant and factual documentation. The various methods used by the Bureau to obtain this information include:

- Direct contact with local law enforcement agencies;
- Telephone and/or written communication with the subject and/or complainant;
- A visit to the subject's place of business;
- Bureau Office conference with the subject;
- Use of the Department's Division of Investigation to provide a more in-depth investigation or "sting;" and
- Obtaining police and/or court records of an incident, if available.

Upon completion of the investigation into an alleged violation, the Bureau analyzes the evidence gathered to determine the existence of a violation, and if so, the severity. Appropriate action is initiated that may include issuance of a cease and desist letter, administrative citation and fine, or license revocation.

The first part of the report deals with the general situation of the company and the results of the year. It is a summary of the main points of the annual report and is intended to give a general impression of the company's performance.

The second part of the report deals with the financial results of the year. It contains a detailed analysis of the company's income statement, balance sheet, and cash flow statement.

The third part of the report deals with the company's operations and the results of the year. It contains a detailed analysis of the company's production, sales, and marketing activities.

The fourth part of the report deals with the company's personnel and the results of the year. It contains a detailed analysis of the company's human resources, including the number of employees, their qualifications, and their performance.

The fifth part of the report deals with the company's research and development activities and the results of the year. It contains a detailed analysis of the company's research and development efforts, including the number of projects, the amount of funding, and the results of the research.

The sixth part of the report deals with the company's environmental and social responsibilities and the results of the year. It contains a detailed analysis of the company's environmental and social performance, including the number of projects, the amount of funding, and the results of the research.

The seventh part of the report deals with the company's future prospects and the results of the year. It contains a detailed analysis of the company's future prospects, including the number of projects, the amount of funding, and the results of the research.

The eighth part of the report deals with the company's financial results and the results of the year. It contains a detailed analysis of the company's financial performance, including the number of projects, the amount of funding, and the results of the research.

The ninth part of the report deals with the company's personnel and the results of the year. It contains a detailed analysis of the company's human resources, including the number of employees, their qualifications, and their performance.

The tenth part of the report deals with the company's research and development activities and the results of the year. It contains a detailed analysis of the company's research and development efforts, including the number of projects, the amount of funding, and the results of the research.

The eleventh part of the report deals with the company's environmental and social responsibilities and the results of the year. It contains a detailed analysis of the company's environmental and social performance, including the number of projects, the amount of funding, and the results of the research.

The twelfth part of the report deals with the company's future prospects and the results of the year. It contains a detailed analysis of the company's future prospects, including the number of projects, the amount of funding, and the results of the research.

All complaint histories, including actions taken by the Bureau, are maintained, on the Department of Consumer Affairs' database, and are taken into consideration upon the receipt of any additional complaint information or allegation of a new or continued violation for the same subject/licensee.

- 7. Your proposed 2006-2007 budget includes over 9 million dollars in available reserves that could be used for enforcement activities. How much of that reserve do you anticipate spending on enforcement, and what are your enforcement priorities?**

The Bureau monitors fund balance reserve levels on an ongoing basis for conformity with established fund reserve levels such as that contained in Section 128.5 of the Business and Professions Code. Fund condition reviews are conducted during the annual budget development process and monthly expenditure and revenue projection updates. I am aware of the subject reserve requirements. My staff and I examine all revenue and expenditure factors on an ongoing basis and will implement the appropriate measures.

In regard to the Private Security Services Fund, our projected 2006-07 reserve is \$6.2 million. I believe this is a reasonable reserve, especially in light to the uncertain fiscal impact of SB 194. I believe it would be premature to make any adjustments to the Private Security Services Fund until such time as the fiscal impact of SB 194 is determined.

The following are the top enforcement priorities for the Bureau:

1. Actual or Potential Physical Harm
2. Sexual Abuse
3. Weapons Violation
4. Conviction of a Crime (Felony)
5. Conviction of a Crime (Misdemeanor)
6. Applicant Investigation (prior to granting license)
7. Dishonesty/Fraud
8. Unlicensed Activity
9. Failure to Provide Service
10. Administrative/Technical
11. All Other

- 8. How does BSIS identify those licensees and law enforcement agencies having a homeland security function, and how does BSIS then partner with these law enforcement agencies to monitor and identify these companies to achieve full compliance with applicable rules? Please provide examples of and data related to, law enforcement partnerships, local compliance checks and results of this effort.**

1. The first part of the report deals with the general situation of the country and the position of the various groups of the population. It is a very interesting and informative study of the social and economic conditions of the country.

2. The second part of the report deals with the political situation of the country. It is a very interesting and informative study of the political conditions of the country.

3. The third part of the report deals with the economic situation of the country. It is a very interesting and informative study of the economic conditions of the country.

4. The fourth part of the report deals with the social situation of the country. It is a very interesting and informative study of the social conditions of the country.

5. The fifth part of the report deals with the cultural situation of the country. It is a very interesting and informative study of the cultural conditions of the country.

6. The sixth part of the report deals with the military situation of the country. It is a very interesting and informative study of the military conditions of the country.

7. The seventh part of the report deals with the foreign relations of the country. It is a very interesting and informative study of the foreign relations of the country.

8. The eighth part of the report deals with the future of the country. It is a very interesting and informative study of the future of the country.

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Most Bureau licensees are involved in some form of contract security business, including private investigators, security guards, locksmiths and training facilities, continually obtaining contracts to provide their services at new locations. As such, the Bureau can not determine when a licensee may have a contract involving a function associated with homeland security. Thus, the Bureau has made the assumption that all licensees may eventually be involved with a homeland security function. The same assumption is made for all law enforcement agencies operating within California. Although the Bureau has not been made aware of any specific rules or laws established to regulate private companies operating within a homeland security function, the Bureau has taken significant steps to partner with both licensees and law enforcement agencies addressing concerns of homeland security. These steps include, but are not limited to, the following:

- Development of a 4 hour training course (presented on DVD and CD-ROM) on Weapons of Mass Destruction (WMD) & Terrorism Awareness for Security Professionals that was developed in partnership with California Commission on Peace Officer Standards and Training; University of California, Irvine; Governor's Office of Homeland Security; subject matter experts representing licensed training facilities, private investigators, and security companies; Redondo Beach Police Department; and, the Chemical Industry Council of California.
- Drafting regulations requiring all licensed security guards to be trained using the WMD and Terrorism Awareness course prior to standing post for the first time.
- Speaking at and providing presentations on the WMD and Terrorism Awareness course at the Law Enforcement And Private Security (LEAPS) conference which is a partnership of Los Angeles area law enforcement and private security businesses and also at the Police/Private Sector Partnership in Irvine.
- Speaking at and providing presentations on preventing terrorist events through proper training to industry associations in the security, repossession, private investigator and locksmith professions within the past 9 months. Also providing information and speaking at meetings with proprietary security guard associations and large proprietary guard companies including Disneyland, Target Stores and several major sports complexes in California.
- Attending meetings and speaking on terrorism awareness with the California District Attorney's Association.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that this is crucial for the company's financial health and for providing transparency to stakeholders. The text mentions that the records should be kept up-to-date and should be accessible to all relevant parties.

2. The second part of the document outlines the procedures for handling customer inquiries. It states that all inquiries should be handled promptly and professionally. The text provides a list of steps to follow when dealing with a customer, including listening to the customer's concerns, identifying the problem, and offering a solution. It also mentions that the company should strive to exceed customer expectations.

3. The third part of the document discusses the company's commitment to environmental sustainability. It states that the company aims to reduce its carbon footprint and to use resources responsibly. The text mentions that the company has implemented various measures to achieve these goals, such as using energy-efficient equipment and recycling materials.

4. The fourth part of the document discusses the company's commitment to social responsibility. It states that the company aims to contribute positively to the community and to support social causes. The text mentions that the company has implemented various measures to achieve these goals, such as donating to charity and supporting local businesses.

5. The fifth part of the document discusses the company's commitment to employee well-being. It states that the company aims to provide a safe and healthy work environment for all employees. The text mentions that the company has implemented various measures to achieve these goals, such as providing safety training and offering health and wellness programs.

6. The sixth part of the document discusses the company's commitment to innovation. It states that the company aims to develop new products and services that meet the needs of its customers. The text mentions that the company has implemented various measures to achieve these goals, such as investing in research and development and encouraging employee creativity.

7. The seventh part of the document discusses the company's commitment to ethical behavior. It states that the company aims to conduct all business in a fair and honest manner. The text mentions that the company has implemented various measures to achieve these goals, such as establishing a code of ethics and providing training on ethical behavior.

8. The eighth part of the document discusses the company's commitment to customer satisfaction. It states that the company aims to ensure that all customers are satisfied with their experience. The text mentions that the company has implemented various measures to achieve these goals, such as conducting customer surveys and offering a satisfaction guarantee.

9. The ninth part of the document discusses the company's commitment to financial performance. It states that the company aims to achieve sustainable financial growth. The text mentions that the company has implemented various measures to achieve these goals, such as controlling costs and increasing revenue.

10. The tenth part of the document discusses the company's commitment to transparency. It states that the company aims to provide clear and accurate information to all stakeholders. The text mentions that the company has implemented various measures to achieve these goals, such as publishing financial statements and providing regular updates on company performance.

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- Establishing a public advisory committee for the Bureau that includes industry association presidents, representatives from law enforcement, and from the Department of Justice.

To date, the Bureau estimates that over 4,000 copies of the WMD and Terrorism Awareness training have been delivered to businesses operating in California, and that approximately 150,000 to 200,000 individuals have received this training.

534-R

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